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PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

Teachers, Principals, and School Superintendents

Sections 24.12, 24.13, 24.14, 24.34, 24.115, 24.116, 24.117, and 24.118 are revoked, and § 24.147 is added as set out below.

§ 24.147 Teacher (Elementary), (Appropriate Subject Field), (Vocational), and (Guidance); Department Head (Appropriate Subject Field), (Vocational), and (Guidance); Principal-Teacher (Elementary) and (Appropriate Subject Field); Principal; Reservation Principal; School Superintendent; Director of Schools; Director of Education, all grades in classification series GS–1710 in Indian Schools and all other Federally operated elementary and secondary schools (minimum education requirements do not apply to Substitute Teachers).

(a) *Educational requirements*—(1) *State certification requirements; all grades.* Applicants must meet the pertinent certification requirements of the State in which they are to be employed.

(2) *Minimum education requirements; all grades*—(i) *For all positions.* Applicants must have successfully completed all academic requirements for graduation with a bachelor's degree from an accredited college or university. This study must have included, or have been supplemented by, a minimum of 18 semester hour credits in Education.

(ii) *For certain positions.* Some positions require completion of additional and specific study in Education and/or particular subject-matter courses as follows:

For Teacher, Department Head, Principal-Teacher, Principal and Reservation-Principal in Elementary Education: 6 semester-hour credits in Education.

The applicant's total study must have included at least 12 semester-hour credits in elementary education of which 4 semester hours must have been in supervised practice teaching.

For Teacher, Department Head, and Principal-Teacher, in Secondary Schools in Appropriate Subject Field(s), e.g., History, Physics, English, Mathematics: 24 semester-hour credits in an appropriate subject field, or 15 semester-hour credits in each of two appropriate subject fields (applicants should indicate the two fields for which they desire consideration). The applicant's study in Education must have included 4 semester-hour credits in appropriate supervised practice teaching.

For Teacher (Guidance), and Department Head (Guidance): 6 semester-hour credits in Education.

The applicant's total study must have included 12 semester-hour credits in a combination of Psychology and Guidance subjects (with a minimum of 3 semester hours in each) directly related to education, such as child psychology, educational psychology, educational tests and measurements, and educational, vocational, or child guidance. Studies in these subjects, up to a maximum of 12 semester hours, will be considered as studies in education, and must have included 4 semester credits in supervised counseling practice.

(b) *Duties*—(1) *General.* Incumbents of these positions perform professional work involved in teaching in Federally operated elementary, secondary, or comparable schools, or in the administration or supervision of such schools.

(2) *Specifically*—(i) *Teacher (elementary).* Instructs in elementary school programs.

(ii) *Teacher (Appropriate Subject Field) and (Vocational Subjects).* Instructs in secondary schools (or comparable schools) in one or more particular subject-matter or vocational courses.

(iii) *Teacher (Guidance).* Has primary responsibility for educational, vocational, and personal guidance and counseling of students.

(iv) *Department Head (Appropriate Subject Field) and (Vocational Subjects).* (*a*) Directs educational programs of a department involving one or two subject-matter fields, usually in secondary schools. The program may be as broad as the entire academic program in a small school, or as narrow as a single subject, e.g., English, or History.

(*b*) A Department Head position may also exist as head of a functional department; he is responsible for organizing instruction in the elementary grades, e.g., Department Head (Academic).

(v) *Department Head (Guidance).* Directs guidance and counseling programs and services in elementary or secondary schools, or other comparable schools.

(vi) *Principal-Teacher (Elementary).* Directs educational programs of elementary school and also serves as teacher.

(vii) *Principal-Teacher (Appropriate Subject Field) and (Vocational Subjects).* Directs educational programs of secondary (or comparable) schools, and also teaches in one or two subject-matter areas.

(viii) *Principal.* Directs educational programs of elementary and/or secondary schools.

(ix) *Reservation Principal.* Directs educational programs in two or more elementary and/or secondary schools or Indian reservations. The responsibilities of this position do not include day-to-day administration and maintenance of the school.

(x) *School Superintendent.* Directs educational programs of boarding schools, or of two or more elementary and/or secondary schools. Has full administrative and maintenance responsibility.

(xi) *Director of Schools.* Directs education programs embracing a wide geographic area such as a State or multi-State area, or a military command.

(xii) *Director of Education.* Directs education programs that are national in scope, or include all the dependent schools in one or more of the Armed Services.

(c) *Knowledge and training requisite for performance of duties.* The duties to be performed require a knowledge of teaching principles and techniques, an understanding of the developmental stages, both physical and mental, of young people, the ability to recognize special instructional and behavior problems that arise in teaching situations, a thorough knowledge of the subject-matter area as pertinent, an understanding of the interrelationships between the formal school situation and nonschool activities as educative factors, and a knowledge of accepted methods of classroom management. The duties also require a knowledge of the professional principles and philosophy of education, its theories, practices and techniques; for some positions outstanding ability to evaluate the educational and vocational needs and to plan a program to meet these needs. This knowledge, understanding, and ability can be gained only through directed courses of study as shown in paragraph (a) of this section. By such training the student teacher learns basic philosophies and theories, is guided in his reading and evaluation of literature in the subject-matter field to be taught and in the field of education, and receives supervised practice in teaching.

(Sec. 11, 58 Stat. 390; 5 U.S.C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant.

[F.R. Doc. 60–1812; Filed, Feb. 29, 1960; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 718—DETERMINATION OF ACREAGE AND PERFORMANCE

Miscellaneous Amendments

The amendments herein are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301 et seq.), the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.), the Agricultural Act of 1949, as amended (7 U.S.C. 1441 et seq.), and the Soil Bank Act (7 U.S.C. 1801 et seq.). These amendments include provisions relative to: (1) County committee responsibility in the ad-

ministration of the provisions prescribed under intertilled and fallow-stripped planting; (2) the authorization of early measurement; (3) State committee option with respect to the use of "within" notices; (4) effect of State committee election not to mail "within" notices on erroneous notice provision; and (5) the publication of State committee determinations pursuant to § 718.15(a), as amended, for the States of California, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Dakota, Oregon, South Dakota, Texas, and Utah.

Since farmers are now engaged in 1960 farming operations, it is imperative that notice of these amendments be given as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest and that these amendments shall become effective upon publication in the FEDERAL REGISTER.

1. Section 718.5 is amended by changing subparagraph (2) of paragraph (e) and by adding paragraph (i), as follows:

§ 718.5 Methods of measurement.

* * * * *

(e) *Intertilled and fallow-stripped acreage.* * * *

(2) *Allotment crops.* When two row crops subject to allotment or one such allotment row crop and another competitive row crop are planted in alternate rows or in strips of two or more rows, the acreage shall be considered as intertilled. When an allotment row crop is planted in alternate rows or strips with noncompetitive crops or in alternate rows or strips with idle or fallow land, the acreage shall be considered as fallow-stripped. In the application of the provisions of this § 718.5(e)(2), it is not intended that deviations from prescribed row width requirements which are attributable to variations normal to the operation of mechanical equipment shall serve to disqualify a planting pattern or a deductible strip.

* * * * *

(i) *Early measurement.* The county committee, with the approval of the State committee, may provide for a determination of acreage for any crop prior to the regular performance period, after planting of the crop is completed on the farm, if the farm operator requests such service and pays the cost. Such cases shall be handled in accordance with procedures prescribed in this part for regular performance. The farm shall be subject to such further performance determinations as may be necessary to establish a final acreage.

2. Section 718.10(a) is amended to read as follows:

§ 718.10 Notices to farm operators.

(a) *General.* After the determination of the acreages for the farm which are relevant in determining compliance with the allotment for an allotment crop or performance with respect to a program, a written notice of such acreages shall be mailed to the farm operator by the county office manager or by an employee of the county office on behalf of the county office manager, except that the State committee may elect not to mail notices to farm operators in cases where the acreage determined for the farm is within the allotment or within the soil bank permitted acreage established for the farm. The notice shall be on a form prescribed by the Deputy Administrator for the particular commodity or program, and mailing of the notice to the farm operator shall constitute notice to each producer on the farm. In States where the foregoing option is exercised, a farm operator who does not receive notice of excess acreage on his farm through error shall be deemed to have received notice that his farm had no excess acreage for the purpose of the erroneous notice provision of this § 718.10(b).

§ 718.15 [Amendment]

3. In § 718.15(b), the Table of Sections Affected by Determinations of State Committees Pursuant to § 718.15, is amended for the States of California, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Dakota, Oregon, South Dakota, Texas, and Utah to read as follows:

TABLE OF SECTIONS AFFECTED BY STATE COMMITTEE DETERMINATIONS PURSUANT TO § 718.15

State	718.2(n)	718.5(g)		718.5(h)		718.12(s)		
		(1)	(2)	(2)	(3)	(1-ii)	(2-i)	(2-ii)
*	*		*	*	*		*	*
California	For sugar beets, 20 inches.	0.1 A. Minimum widths: (1) around perimeter of the field, one normal row, cropline to cropline, for row crops and 4 links for close-sown crops; (2) within the planted area, 4 normal rows, cropline to cropline, for row crops and 20 links for close-sown crops.	Minimum area of 0.1 A. established. Minimum widths, cropline to cropline, 4 normal rows for row crops and 20 links for close-sown crops. Each area to be deducted must meet the minimum requirements.		Minimum widths, cropline to cropline, 4 normal rows for row crops and 20 links for close-sown crops. Acreages to be destroyed shall be limited to 2 areas within any one field (a block of 2 or more consecutive 4-row strips, each extending the full length of the field will count as one area). Irrigation ditches, constructed subsequent to the initial acreage determinations, which meet the minimum area and width requirements may be deducted in addition to the 2-area limitation per field. At least one side of any area to be deducted must be on the perimeter of the field. All sides of each area must be straight, except sides which are a part of the perimeter of a field, sides which are contour levees of rice fields, or sides formed by a crop row. Any area having more than 8 sides will not qualify for adjustment except in cases where a block of 4-row strips is accepted as one area.			
*	*	*	*	*	*	*	*	*

TABLE OF SECTIONS AFFECTED BY STATE COMMITTEE DETERMINATIONS PURSUANT TO § 718.15—Continued

State	718.2(n)	718.5(g)		718.5(h)		718.12(a)		
		(1)	(2)	(2)	(3)	(1-ii)	(2-i)	(2-ii)
Indiana		0.1 A. for all crops except tobacco. Minimum widths: (1) around perimeter of the field, the smaller of 5 links or one row; (2) within the planted area, 5 links in case of close-sown crops.	Minimum area for tobacco, 0.01 A. Minimum area for all other crops, 0.1 A. Minimum width, 3 rows for all row crops except tobacco and 15 links for all close-sown crops. Each area must meet the minimum requirements.	0.1 A. Minimum width 2 rows. After one or more areas to be disposed of have been determined, the final area shall be the balance of the excess even though it does not meet the minimum area requirement of 0.1 A.	1.0 A. Minimum width, 2 rows for row crops and 10 links for close-sown crops. After one or more areas to be disposed of have been determined, the final area shall be the balance of the excess even though it does not meet the minimum area requirement of 1.0 A.			
Kansas	For sugar beets, 20 inches.	0.1 A.			0.5 A. for all crops except sugar beets. All acreage to be destroyed must be in plots of 0.5 A. or more except that where the entire area of a field to be disposed of is less than the minimum, credit may be allowed for such area and the balance of the excess may be destroyed from another field.			
Kentucky			Minimum area of 0.01 A. established. Each area must meet the minimum requirement.		Minimum widths for tobacco: (1) inside planted area and along end boundaries, the smaller of 10 links or 2 rows; (2) along boundaries parallel to the rows in the field, one row.			
Louisiana		Unplanted rice levees within rice fields are not eligible for deduction.			1.0 A. for all crops except cotton and peanuts. All row crops must be disposed of in the same pattern followed when the crops were planted. Minimum widths: (1) for cotton and peanuts, 0.3 chain; (2) for all other crops, 0.5 chain. In either (1) or (2) above, the increase in minimum width may be disregarded under the following conditions: (a) In cases where an area along one edge or within a field is destroyed, provided the entire length of the row(s) is destroyed and all of the excess for the farm is destroyed in one area; or (b) where all of the commodity within a field or subdivision is destroyed.			

TABLE OF SECTIONS AFFECTED BY STATE COMMITTEE DETERMINATIONS PURSUANT TO § 718.15—Continued

State	718.2(n)	718.5(g)		718.5(h)		718.12(a)		
		(1)	(2)	(2)	(3)	(1-ii)	(2-i)	(2-ii)
Mississippi		0.1 A. Minimum widths: Within the planted area, 4 normal rows; around the perimeter of the field, 2 normal rows.	Minimum combined area of 0.1 A. established. Irrigation dikes in cotton fields shall be deducted the same as terraces provided such dikes are at least 0.1 chain in width. Irrigation dikes within rice fields are not eligible for deduction.		For crops other than cotton, 0.5 A. with a minimum width of 4 normal rows. Areas to be destroyed must also meet the following requirements: (1) when the total acreage to be destroyed is 0.5 A. or less, the entire acreage must be destroyed in one plot; (2) when the acreage to be destroyed is more than 0.5 A., only one plot to be destroyed may be less than 0.5 A. For cotton, 0.5 A. with a minimum width of 4 normal rows except that all of any field or subdivision planted to cotton may be disposed of to bring the farm within the allotment regardless of the number or size of such field or subdivision. The area included in cotton irrigation dikes, where the crop was destroyed by the installation of an irrigation system subsequent to planting, may be deducted in adjusting the excess acreage for the farm provided each area deducted meets the minimum area requirement of 0.1 A. and is 0.1 chain in width.			
*	*	*	*	*	*		*	*
Nebraska	For sugar beets, 22 inches.	0.1 A	Minimum area of 0.1 A. established. Each area must meet the minimum area and width requirements.		0.5 A. Minimum width, 15 links.			
*	*	*	*	*	*		*	*
North Dakota	For sugar beets, 20 inches.	For all crops except sugar beets, 0.1 A.	Minimum area for all crops except sugar beets 0.1 A. For sugar beets, 0.03 A. Each area must meet the minimum area and width requirements.		1.0 A. for all crops except sugar beets.			
*	*	*	*	*	*		*	*
Oregon	For sugar beets, 20 inches.	0.1 A. Minimum width within the planted area for close-sown crops, 6 feet.						
*	*	*	*	*	*		*	*
South Dakota	For sugar beets, 22 inches.	0.5 A. for all crops except sugar beets.	Minimum combined area of 0.5 A. established.		0.5 A. for all crops except sugar beets.			
*	*	*	*	*	*		*	*

TABLE OF SECTIONS AFFECTED BY STATE COMMITTEE DETERMINATIONS PURSUANT TO § 718.15—Continued

State	718.2(n)	718.5(g)		718.5(h)		718.12(a)		
		(1)	(2)	(2)	(3)	(1-ii)	(2-i)	(2-ii)
Texas	For vegetable crops, 18 inches; for sugar beets, 30 inches.	For solid-seeded crops and row crops other than tobacco, any continuous area around the outside boundary of a field or subdivision 0.05 A. with a minimum width of 0.1 chain. For row crops other than tobacco, any continuous area within a field, or subdivision 0.1 A. with a minimum width of 4 rows. For solid-seeded crops, any continuous area within a field or subdivision, 0.1 A. with a minimum width of 0.2 chain.	Minimum area of 0.1 A. established. Minimum width for row crops, 4 rows. Minimum width for solid-seeded crops, 0.2 chain. Each area to be deducted must meet the minimum requirement.	Areas to be destroyed must be of regular shape with not more than four sides. One side or one end of the disposition area shall be parallel with the rows or the field boundary when the crop is destroyed in a square, rectangular, or trapezoidal pattern. These restrictions may be disregarded when the crop in an entire field or subdivision is destroyed in disposing of excess acreage.	Areas to be destroyed must be of regular shape with not more than four sides. One side or one end of the disposition area shall be parallel with the rows or the field boundary when row crops are destroyed in a square, rectangular, or trapezoidal pattern. These restrictions may be disregarded when the crop in an entire field or subdivision is destroyed in disposing of excess acreage.			
Utah	22 inches	0.1 A. for sugar beets and wheat; 0.3 A. for all other crops.			0.3 A. for all crops except sugar beets and wheat. The area destroyed must be in one plot or an entire field(s) plus one additional plot in another field. When a portion of a field is destroyed, the disposition area must be in a block which is readily measurable located on one side or one end of the field.			

(Secs. 374, 375, 52 Stat. 65, 66, sec. 401, 63 Stat. 1054, sec. 403, 61 Stat. 932, sec. 124, 70 Stat. 198; 7 U.S.C. 1374, 1375, 1421, 1153, 1812)

Done at Washington, D.C., this 23d day of February 1960.

WALTER C. BERGER,
Administrator, Commodity Stabilization Service.

[F.R. Doc. 60-1802; Filed, Feb. 29, 1960; 8:45 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 46]

PART 946—MILK IN THE LOUISVILLE-LEXINGTON, KENTUCKY, MARKETING AREA

Order Amending Order

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

MISCELLANEOUS PROVISIONS

AUTHORITY: §§ 946.0 to 946.101 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 946.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville-Lexington, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3.0 cents per hundredweight or such amount not to exceed 3.0 cents per hundredweight as the Secretary may prescribe, with respect to (a) all receipts at a pool plant of milk from producers and other source milk classified as Class I milk pursuant to § 946.46; and (b) to milk at a nonpool plant in accordance with § 946.61.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than March 1, 1960.

(2) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued December 30, 1959, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued February 8, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Section 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Louisville-Lexington, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 946.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 946.2 Secretary.

"Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties pursuant to the act of the said Secretary of Agriculture.

§ 946.3 Department.

"Department" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this part.

§ 946.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 946.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 946.6 Louisville-Lexington marketing area.

"Louisville-Lexington marketing area" hereinafter called the "marketing area" means all territory geographically located within the perimeter boundaries of Clark, Floyd, and Harrison Counties, Indiana and Jefferson, Bullitt, Meade, Hardin, Larue, Nelson, Spencer, Shelby, Oldham, Henry, Franklin, Anderson, Woodford, Scott, Fayette, Jessamine, Madison, Montgomery, Clark and Bourbon in the State of Kentucky including all municipal corporations and institutions, lying wholly or partially within such area, owned or operated by the Federal, State or local Governments.

§ 946.7 City plant.

"City plant" means a plant or other facilities, where milk is processed or packaged and from which a fluid milk product(s) which is permitted to be labeled as "Grade A" by health authority having jurisdiction in the marketing area is disposed of through a route(s).

§ 946.8 Country plant.

"Country plant" means a milk plant, other than a city plant, which is approved by the appropriate health authority in the marketing area to supply milk, skim milk or cream to a city plant(s) for disposition as "Grade A" milk in the marketing area and at which milk is received from persons described in § 946.12(a) during the month.

§ 946.9 Pool plant.

"Pool plant" means:

(a) A city plant, other than a plant operated by a producer-handler, which meets the following requirements:

(1) For each of the months of May through October not less than 30 percent and for each of the months of November through April not less than 50 percent of the fluid milk products received during the two months immediately preceding from dairy farmers described in § 946.12 (a), from country plants, and from pool plants in containers not larger than a gallon are disposed of as Class I milk from such plant during such two-month period to all outlets except such disposition to pool plants in containers

larger than a gallon: *Provided,* That, if such utilization percentage for the two preceding months cannot be ascertained by the market administrator, the respective percentages shall apply to receipts and sales during the current month; and

(2) An amount of Class I milk equal to not less than 10 percent of the milk described in § 946.12(a) received directly from dairy farmers and country plants during the current month is distributed through routes in the marketing area.

(b) A country plant during any of the months of October through March in which not less than 10 percent of the receipts of milk at such plant from persons described in § 946.12(a) are delivered to a city plant in the form of milk, skim milk or cream;

(c) A country plant during the months of April through September from which more than 50 percent of the combined receipts of milk from persons described in § 946.12(a) during the preceding period of October through February were delivered to a city plant(s) in the form of milk, skim milk or cream, unless the operator of such plant notifies the market administrator in writing on or before March 15 of withdrawal of the plant from the pool for the months of April through September next following; and

(d) A country plant which is operated by a cooperative association and (1) 75 percent or more of the milk from persons described in § 946.12(a) who are members of such association is delivered during the month directly to the pool plant(s) of other handlers or transferred by such association to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding consecutive months of October through February.

§ 946.10 Nonpool plant.

"Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 946.11 Handler.

"Handler" means (a) any person who operates a city plant or a country plant, and (b) any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 946.13.

§ 946.12 Producer.

"Producer" means any person, except a producer-handler, who produces milk which is:

(a) Approved by a duly constituted health authority for the production of milk for fluid disposition and which milk is permitted by the appropriate health authority in the marketing area to be labeled and disposed of as Grade A milk in the marketing area (this definition shall include approval of milk by the authority to administer the regulations governing the quality of milk acceptable to agencies of the U.S. Government for fluid consumption in its institutions or bases located in the marketing area during any month in which such milk is disposed of to such institutions or bases): *Provided,* That this definition shall not include any person whose milk is permitted on a temporary or emergency basis by such health authority in the marketing area to be labeled and disposed of as Grade A milk; and

(b) Received at a pool plant or diverted in accordance with the conditions set forth in paragraph (b) or (c) of § 946.13.

§ 946.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers which is:

(a) Received directly from producers at a pool plant: *Provided,* That when withdrawals of milk are made at more than one pool plant from the same load delivered by farm tank pick-up truck and in the absence of agreement between the operators of such pool plants as to the reporting of and payment for such milk, the entire load shall be deemed to have been received at the first pool plant at which any of such milk was withdrawn;

(b) Diverted from a pool plant to another pool plant or to a nonpool plant: *Provided,* That such milk so diverted shall be deemed to have been received at the pool plant from which it is diverted: *Provided further,* That this definition shall not include the milk of any person during any of the months of October, November, January, and February in which the milk of such person is diverted by a handler, except a cooperative association, to a nonpool plant for more than one-half of the days of delivery during the month; or

(c) Diverted by a cooperative association to a nonpool plant for the account of the cooperative association: *Provided,* That any milk so diverted shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant from which it is diverted.

§ 946.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products other than fluid milk products from any source (including those produced at the plant) except Class II products from pool plants, which are repackaged, reprocessed or converted to another product in the plant during the month.

§ 946.15 Producer-handler.

"Producer-handler" means any person who processes and packages milk from his own farm production, distributing any portion of such milk within the marketing area as Class I milk and who receives no milk from producers.

§ 946.16 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department of Agriculture during the month.

§ 946.17 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream, or any mixture in fluid form of skim milk and cream (except storage cream, aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 946.18 Route.

"Route" means the operation of a plant store or a vehicle (including that operated by a vendor) through the means of which fluid milk products are disposed of to retail or wholesale stops in the marketing area other than to a milk plant.

MARKET ADMINISTRATOR

§ 946.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 946.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 946.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 946.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 946.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(h) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(i) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts has not made reports pursuant to §§ 946.30 through 946.32, or payments pursuant to §§ 946.80 through 946.86;

(j) On or before the 15th day after the end of each month, report to each cooperative association, which so requests, with respect to producer milk caused to be delivered by such association or by its members to each handler during the month: (1) The percentage of such receipts classified in each class; and (2) the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports, the milk received from such association shall be treated on a pro rata basis of the total producer milk received by such handler during the month;

(k) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing the prices and butterfat differentials determined for each month as follows:

(1) On or before the 12th day after the end of each month, the minimum prices for each class of milk computed pursuant to § 946.51, and the butterfat differentials for each class computed pursuant to § 946.52; and

(2) On or before the 12th day after the end of each month, the uniform price computed pursuant to § 946.71, and the butterfat differential computed pursuant to § 946.81;

(l) On or before the 13th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The net obligation computed for such handler pursuant to § 946.70; and

(2) The amounts to be paid by such handler pursuant to §§ 946.61, 946.84, 946.87, and 946.88.

REPORTS, RECORDS, AND FACILITIES

§ 946.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler, except a producer handler, shall report for such month to the market administrator for each of his pool plants in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk (including such handler's own farm production);

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk other than on routes operated wholly or partially within the marketing area; and

(f) Such other information with respect to his receipts and utilization of butterfat and skim milk as the market administrator may prescribe.

§ 946.31 Payroll reports.

On or before the 20th day after the end of each month, each handler shall submit to the market administrator his producer payroll for deliveries during the month which shall show (a) the total pounds of milk received from each producer and cooperative association and the average butterfat content of such milk, (b) the prices paid and the amount of payment to each producer and cooperative association, and (c) the nature and amount of any credits, deductions, or charges involved in such payments.

§ 946.32 Other reports.

(a) Each producer-handler shall make make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which such milk was first received, and the plant at which such milk was received: *Provided,* That milk diverted to a pool plant as described in § 946.13(b) need not be reported pursuant to this paragraph.

(c) On or before the 10th day after the request of the market administrator, such handler shall submit a schedule of rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Changes in such schedule of rates and the effective dates thereof shall be reported to the market administrator within 10 days.

§ 946.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts, records, and reports of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers, including supporting records of all deductions and written authorization from each producer of the rate per hundredweight or other method for computing hauling charges on such producer milk; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and other milk products on hand at the beginning and end of each month.

§ 946.34 Retention of records.

All books and records required under this part to be available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified records and books until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 946.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to §§ 946.30 and 946.61 shall be classified by the market administrator pursuant to the provisions of §§ 946.41 to 946.46.

§ 946.41 Classes of utilization.

Subject to the conditions set forth in §§ 946.42 through 946.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated or reconstituted skim milk solids) and butterfat (1) disposed of in fluid form as milk, skim milk, cream (including sour cream), buttermilk, milk drinks (plain or flavored), except skim milk and butterfat disposed of in fluid form for livestock feed; (2) disposed of as any fluid milk product which is required by the appropriate health authority in the marketing area to be made from milk, skim milk, or cream from sources approved by such authority; and (3) not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat the utilization of which is established as used to produce (1) cottage cheese, ice cream, ice cream mix, eggnog, frozen desserts, and milk (or skim milk) and cream mixtures containing 8.0 percent or more butterfat disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated

product, and (2) in inventories of fluid milk products.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat, the utilization of which is established: (1) As used to produce any product other than those specified in paragraphs (a) or (b) of this section, (2) as disposed of for livestock feed, (3) as disposed of in bulk to bakeries, candy or soup manufacturers, and other commercial food manufacturing establishments which do not dispose of fluid milk products, and (4) in plant shrinkage of skim milk and butterfat in receipts of producer milk and in other source milk computed pursuant to § 946.42.

§ 946.42 Unaccounted for skim milk and butterfat and plant shrinkage.

Skim milk and butterfat received at a handler's pool plant(s) in excess of such handler's established utilization of skim milk and butterfat pursuant to § 946.41, except paragraphs (a)(3) and (c)(4) shall be known as unaccounted for skim milk and butterfat and classified as follows:

(a) Adjust such handler's receipts of producer milk by (1) deducting the pounds of skim milk and butterfat in producer milk diverted by such handler to a nonpool plant or to the pool plant of another handler without having been received for purposes of weighing and testing in the diverting handler's plant, (2) adding the skim milk and butterfat in producer milk received at the pool plant of such handler which was diverted from the pool plant of another handler;

(b) Prorate the quantities of unaccounted for skim milk and butterfat respectively, between such handler's receipts of skim milk and butterfat, respectively, in producer milk as computed pursuant to paragraph (a) of this section and in other source milk received in the form of fluid milk products in bulk;

(c) That portion of the quantities of unaccounted skim milk not to exceed five percent during the months of April through July and two percent during other months, and the quantities of butterfat not to exceed two percent in each month, of the skim milk and butterfat, respectively, in receipts of producer milk and other source milk applied pursuant to paragraph (b) of this section shall be known as "shrinkage" and classified as Class III milk: *Provided,* That if the quantities of skim milk and butterfat utilized and disposed of in milk and all milk products are not established by such handler all unaccounted for skim milk and butterfat prorated to receipts of producer milk pursuant to paragraph (b) of this section shall be classified as Class I milk;

(d) That portion of the quantities of unaccounted for skim milk and butterfat which is in excess of the quantities of skim milk and butterfat, respectively, classified pursuant to paragraph (c) of this section shall be classified as Class I milk.

§ 946.43 Responsibility for classification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 946.44 Transfers.

Skim milk or butterfat disposed of by a handler from a pool plant either by transfer or diversion shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of a fluid milk product to a pool plant of another handler, unless utilization in another class is mutually indicated in the reports submitted to the market administrator by both handlers pursuant to § 946.30 on or before the 7th day after the end of the month: *Provided,* That if upon inspection of the records of the transferee-handler it is found that an equivalent amount of skim milk or butterfat, respectively, was not actually used in such indicated use, the remaining quantity shall be classified as Class I milk: *And provided further,* That if either or both handlers received other source milk the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest-priced possible class utilization to the producer milk of both handlers;

(b) As Class I milk if transferred or diverted to a producer-handler in the form of a fluid milk product;

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located less than 250 airline miles from the City Hall in Louisville, Kentucky, unless:

(1) The handler claims classification in another class in his report submitted to the market administrator pursuant to § 946.30;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for verification;

(3) An amount of skim milk and butterfat, respectively, of not less than that so claimed by the handler was used in products included in Class II and Class III milk;

(4) The classification reported by the handler results in an amount of skim milk and butterfat in Class I and Class II milk claimed by all handlers transferring or diverting milk to such nonpool plant of not less than the amount of assignable Class I milk and Class II milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plant and classified as Class I milk and used to produce products in Class II milk, pursuant to the classification provisions of this order applied to such nonpool plant, subtract, in series beginning with Class I milk, the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to supply "Grade A" milk and who the market administrator determines constitute the regular source of supply for such nonpool plant;

(ii) From the remaining amount of Class I milk, subtract the skim milk and butterfat, respectively, in fluid milk products received from another market and which is classified and priced as Class I milk pursuant to another order issued pursuant to the act: *Provided,* That the amount subtracted pursuant to this subdivision shall be limited to such markets' pro rata share of such remainder based on the total receipts of skim milk and butterfat, respectively, at such nonpool plant which are subject to the pricing provisions of an order issued pursuant to the act;

(5) If the skim milk and butterfat, respectively, transferred by all handlers to such a nonpool plant and reported as Class I milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class I milk, pursuant to subparagraph (4) of this paragraph, an equivalent amount of skim milk and butterfat shall be reclassified as Class I milk pro rata in accordance with the total of the lower priced classifications reported by each of such handlers;

(6) If the skim milk and butterfat, transferred by all handlers to such nonpool plant and reported as Class II milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class II milk pursuant to subparagraph (4) of this paragraph, less the amount of skim milk and butterfat received directly from "ungraded" dairy farmers at such nonpool plant, respectively, an equivalent amount of skim milk and butterfat shall be reclassified as Class II milk pro rata in accordance with the claimed Class III classification reported by each of such handlers;

(d) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located 250 airline miles or more from the City Hall in Louisville, Kentucky.

§ 946.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in each class for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before such product is disposed of by a handler, the hundredweight of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat solids contained in such product, plus all of the water originally associated with such solids.

§ 946.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 946.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds

of skim milk assigned to producer milk shrinkage pursuant to § 946.42(c);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk which are not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in Class III milk an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(5) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subparagraphs (1) and (3) of this paragraph;

(6) Subtract from the remaining pounds of skim milk in Class II and Class I milk, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products as determined pursuant to § 946.44(a);

(8) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class III. Any amount of excess so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 946.50 Basic formula price.

The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section and subparagraph (1) of § 946.51(c).

(a) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Add 20 percent to the Chicago butter price for the month and multiply by 3.8.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.2.

(b) The price per hundredweight resulting from the following formula:

(1) Multiply by 8.53 the average of the daily prices per pound of cheese at Wisconsin Primary Markets ("cheddars," f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department during the month;

(2) Add 0.902 times the Chicago butter price for the month;

(3) Subtract 34.3 cents; and

(4) Add an amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 3.

(c) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Companies and Location

Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

Add an amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 3.

§ 946.51 Class prices.

Subject to the provisions of §§ 946.52 and 946.53, the minimum prices per hundredweight to be paid by each handler for milk of 3.8 percent butterfat content received at his pool plant(s) from producers during the month shall be as follows:

(a) *Class I milk.* The price of Class I milk shall be the basic formula price for the preceding month, rounded to the nearest tenth of a cent, plus $1.30: *Provided,* That starting with the 15th month after the effective date of this amendment the Class I price shall be such basic formula price plus $1.25, subject to a supply-demand adjustment computed as follows:

(1) Calculate the percentage that total receipts of producer milk was of total Class I milk at all pool plants for each of the following periods:

(i) The 24-month period ending with the third preceding month, and

(ii) The two-month period ending with the second preceding month and the corresponding two-month period of each of the two preceding years;

(2) Determine the simple average of the percentages for the three two-month periods computed pursuant to subparagraph (1)(ii) of this paragraph and divide by the percentage for the 24-month period determined pursuant to subparagraph (1)(i) of this paragraph;

(3) Add to the quotient obtained pursuant to subparagraph (2) of this paragraph the corresponding ratios for each of the 11 months immediately preceding and divide by 12;

(4) Multiply 137 percent by the result obtained by dividing the ratio computed pursuant to subparagraph (2) of this paragraph by the ratio computed pursuant to subparagraph (3) of this paragraph;

(5) Determine the net deviation percentage by subtracting the percentage determined pursuant to subparagraph (4) of this paragraph from the percentage determined pursuant to subparagraph (1)(ii) of this paragraph for the second and third preceding months; and

(6) Determine the amount of the supply-demand adjustment from the following schedule:

Net deviation percentage:	*Supply-demand adjustment (cents)*
+16 or over	−50
+13 or +14	−40
+10 or +11	−30
+7 or +8	−20
+4 or +5	−10
+2 or −2	0
−4 or −5	+10
−7 or −8	+20
−10 or −11	+30
−13 or −14	+40
−16 or more	+50

When the net deviation percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket applicable for the previous month.

(b) *Class II milk.* The price for Class II milk shall be the higher of the basic formula price pursuant to § 946.50 or that computed pursuant to subparagraphs (1) and (2) of this paragraph, rounded to the nearest tenth of a cent:

(1) Multiply the Chicago butter price by 4.56;

(2) Add an amount computed as follows: from the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray process for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.2.

(c) *Class III milk.* The price of Class III milk for the months of September through March shall be the higher of the prices computed pursuant to § 946.50 (a) or subparagraph (1) of this paragraph and for the months of April through August the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, rounded to the nearest tenth of a cent.

(1) From the average of the basic or field prices per hundredweight reported to the market administrator to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at plants at the following locations:

Operator and Location

Armour Creameries, Elizabethtown, Ky.
Armour Creameries, Springfield, Ky.

Kraft Foods Co., Lawrenceburg, Ky.
Kraft Foods Co., Paoli, Ind.
Salem Cheese and Milk Co., Salem, Ind.
Red 73 Creameries, Madison, Ind.
Producers Dairy Marketing Association, Orleans, Ind.

Subtract the amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 2.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) Add 15 percent to the Chicago butter price for the month and multiply by 3.8.

(ii) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, roller process, for human consumption f.o.b. manufacturing plants in Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department deduct 6.5 cents and multiply by 8.2.

§ 946.52 Price adjustments to handlers.

(a) *Butter differentials.* If the weighted average butterfat content of milk received from producers allocated to Class I, Class II, or Class III, respectively, pursuant to § 946.46, for a handler is more or less than 3.8 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.8 percent, a butterfat differential (computed to the nearest tenth of a cent), calculated for each class as follows:

(1) *Class I milk.* Multiply by 0.125 the Chicago butter price for the preceding month.

(2) *Class II milk.* For the months of September through December, multiply the Chicago butter price by 0.120, and for the months of January through August, multiply by 0.118.

(3) *Class III milk.* For the months of September through March multiply the Chicago butter price by 0.12 and for the months of April through August multiply the Chicago butter price by 0.115.

§ 946.53 Transportation differentials to handlers.

For producer milk which is received at a pool plant located 85 miles or more from the City Hall in Louisville or Lexington, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 946.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from City Hall (miles):	*Rate per hundredweight (cents)*
85 but less than 95	15.0
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II and Class III milk in the transferee plant after making the calculations prescribed in § 946.46(a)(6), and the comparable steps in § 946.46(b) for such plant, such assignment to transferrer plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 946.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 946.60 Producer-handlers.

Sections 946.40 through 946.46, 946.50 through 946.53, 946.61, 946.70, 946.71, and 946.80 through 946.89 shall not apply to a producer-handler.

§ 946.61 Obligation of handlers operating a nonpool plant which is a city plant.

Each handler, except a producer-handler, in his capacity as the operator of a nonpool plant which is a city plant shall:

(a) On or before the 7th day after the end of the month make reports to the market administrator with respect to the disposition of Class I milk in the marketing area and such other information on the total receipts and utilization of skim milk and butterfat at such plant as the market administrator may require, except that a handler selecting the option provided in paragraph (c) of this section at the time his report is filed shall report in accordance with §§ 946.30 and 946.31 as though a pool plant;

(b) On or before the 15th day after the end of the month pay to the market administrator, unless such handler elects at the time of reporting pursuant to paragraph (a) of this section the option provided pursuant to paragraph (c) of this section, an amount (1) for deposit in the producer-settlement fund, equal to the rate of payment on unpriced milk pursuant to § 946.70(e) multiplied by the hundredweight of skim milk and butterfat disposed of from such plant as Class I milk (computed in accordance with § 946.45) in the marketing area on routes during such month, less the skim milk and butterfat received from a pool plant during the month and classified as Class I milk under this part; and (2) for administrative assessment, equal to the rate specified in § 946.88 with respect to Class I milk and all milk, skim milk and cream used to produce Class II and Class III products disposed of during the month on routes in the marketing area less the quantity of skim milk and butterfat received during such month from a pool plant; and

(c) On or before the 18th day after the end of the month pay an amount (1) for deposit into the producer-settlement fund, equal to any plus amount remaining after deducting from the obligation that would have been computed pursuant to § 946.70 for such nonpool plant and for any country plant (meeting the requirements equivalent to § 946.9 (b) or (c)) which serves as a source of milk for such nonpool plant, if such plant(s) were a pool plant(s), (i) the gross payments made on or before the 17th day after the end of the month for milk received at such plant(s) during the month from dairy farmers meeting the conditions in § 946.12(a), and (ii) any payments to the producer-settlement funds under other orders issued pursuant to the Act applicable to milk handled at such plant during the month as a partially regulated plant under such other orders: *Provided,* That in the application of § 946.44 for the purpose of this subparagraph, transfers or diversions of milk from such nonpool plant(s) to a pool plant shall be classified as Class I, Class II and Class III milk in the same ratio as other source milk is allocated to each class in such pool plant pursuant to § 946.46(a)(2) and the corresponding step of § 946.46(b): *And provided further,* in the application of § 946.46(a)(7) and the corresponding step of § 946.46(b), receipts of fluid milk products at such nonpool plant from a pool plant(s) shall be allocated from the class in which such products are classified at the pool plant pursuant to § 946.44 (c) or (d); and (2) for administrative assessment, equal to the amount which would have been computed pursuant to § 946.88, if such nonpool plant had been a pool plant during the month: *Provided,* That such amount shall be reduced by any amounts paid for the month as an administrative expense assessment determined on the basis of Class I milk disposed of on routes in other marketing areas pursuant to the terms under such other order issued pursuant to the Act: *And provided further,* That (i) if less Class I milk is disposed of from such plant on routes in the Louisville-Lexington marketing area than is disposed of during the month on routes in another marketing area(s) as defined in an order(s) issued pursuant to the Act, and (ii) if an administrative expense assessment is applied at such plant as if a fully regulated (pool) plant under such order pursuant to the order for the marketing area where the volume of Class I milk disposed of from such plant is greatest, no administrative expense assessment shall be applied under this order.

§ 946.62 Plants subject to other Federal orders.

The provisions of this part shall not apply to a milk plant during any month in which the milk at such plant would be subject to the pricing and pooling provisions of another order issued pursuant to the Act unless such plant meets the requirements for a pool plant pursuant to § 946.9 and a greater volume of fluid milk products is disposed of from such plant to pool plants and to retail or wholesale outlets located in the Louisville-Lexington marketing area than in the marketing area regulated pursuant to such other order during the current month and each of the three months, immediately preceding: *Provided,* That the operator of a plant which is exempted from the provisions of this order pursuant to this section shall, with

respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 946.70 Net obligation of each handler.

The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 946.46 by the applicable class price;

(b) Add together the resulting amounts;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 946.46 by the applicable class prices;

(d) Add the amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 946.46(a)(6) and the corresponding step of § 946.46 (b), whichever is less; and

(e) Add the amount computed by multiplying the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 946.46(a)(2) and the corresponding step of § 946.46(b) by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat and transportation differentials;

(1) For the months of January through September, the Class III price adjusted by the Class III butterfat differential; and

(2) For the months of October through December the uniform price computed pursuant to § 946.71 adjusted by the Class I transportation differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resultant figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent; and

(f) Add the amount computed by multiplying the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 946.46(a)(6) and the corresponding step of § 946.46(b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (d) of this section and the skim milk and butterfat subtracted from Class II milk pursuant to § 946.46(a)(4) and the corresponding step of § 946.46(b) in the preceding month by the applicable rate determined pursuant to paragraph (e) (1) or (2) of this section for the month.

§ 946.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.8 percent butterfat content received from producers as follows:

(a) Combine into one total the net obligations computed for all handlers who made the reports prescribed in § 946.30 for the month and who are not in default of payments pursuant to § 946.84 for the preceding month;

(b) Subtract, if the average butterfat content of the producer milk included in these computations is greater than 3.8 percent, or add, if such average butterfat content is less than 3.8 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 946.81 and multiply the resulting figure by the total hundredweight of such milk;

(c) Add an amount computed by multiplying the hundredweight of milk received from producers at each country plan by the appropriate zone differential provided in § 946.53.

(d) Subtract for each of the months of April, May, June, and July an amount computed by multiplying the total hundredweight of producer milk included in these computations by 12 percent of the simple average of the basic formula prices, computed to the nearest cent, for the 12 months of the preceding calendar year;

(e) Add an amount representing one-half of the cash balance on hand in the producer-settlement fund after deducting the total amount of contingent obligations to handlers pursuant to § 946.85 (a) and the balance held pursuant to paragraph (d) of this section for payment pursuant to § 946.85(b);

(f) Divide the resulting total by the total hundredweight of producer milk included in these computations; and

(g) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (f) of this section. The resulting figure shall be the uniform price for milk of 3.8 percent butterfat content received from producers at a handler's pool plant.

PAYMENTS

§ 946.80 Time and method of payment for producer milk.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler, at not less than the Class III price for 3.8 percent milk for the preceeding month without deduction for hauling;

(b) On or before the 17th day after the end of each month for milk received from such producer during such month, an amount computed at not less than the uniform price per hundredweight plus the per hundredweight payment provided by § 946.85(b) for the month, subject to the butterfat differential computed pursuant to § 946.81, and, plus or minus, adjustments for errors made in previous payments to such producer; and less (1) the payment made pursuant to paragraph (a) of this section, (2) the location differential pursuant to § 946.82, (3) marketing service deductions pursuant to § 946.87 and (4) proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is marketing the producer's milk, by such association;

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association in lieu of payments pursuant to paragraphs (a) and (b) of this section, each handler shall pay to the cooperative association on or before the second day prior to the dates specified in paragraphs (a) and (b), respectively, of this section, an amount equal to the sum of the individual payments otherwise payable to such producers without the deductions provided by paragraphs (b)(3) and (4) of this section: *Provided*, That deductions for supplies authorized by such producer may be made. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the month next following receipt of such certification through the last day of the month next preceeding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraph (b) of this section, each handler shall furnish each producer a supporting statement which shall show for each month the following:

(1) The identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to para-

graph (c) of this section, each handler shall furnish to such cooperative association a statement which shall show: (1) The identity of the handler and of the producer, (2) the total pounds and the average butterfat content of milk received from such producer, and (3) the amount of deductions claimed by such handler.

§ 946.81 Producer butterfat differential.

In making payment to producers pursuant to § 946.80(b) each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of one percent that the average butterfat content of the milk received from the producer is above or below 3.8 percent, the amount set forth in the following schedule for the price range in which falls the Chicago butter price for the month during which such milk was received.

Butter price range (cents):	*Butterfat differential (cents)*
17.499 or less	2
17.50 to 22.499	2½
22.50 to 27.499	3
27.50 to 32.499	3½
32.50 o 37.499	4
37.50 to 42.499	4½
42.50 to 47.499	5
47.50 to 52.499	5½
52.50 to 57.499	6
57.50 to 62.499	6½
62.50 to 67.499	7
67.50 to 72.499	7½
72.50 to 77.499	8
77.50 to 82.499	8½
82.50 to 87.499	9
87.50 to 92.499	9½
92.50 and over	10

§ 946.82 Location differential.

In making payments to producers pursuant to § 946.80(b) a handler shall deduct from the uniform price, with respect to all milk received from producers at a pool plant, not more than the appropriate zone differential provided in § 946.53.

§ 946.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 946.61, 946.84, and 946.86 and out of which he shall make all payments pursuant to §§ 946.85 and 946.86: *Provided,* That payments due any handler shall be offset by payments due from such handler.

§ 946.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator any amount by which the net obligation of such handler for the month is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat and location differentials.

§ 946.85 Payments out of the producer-settlement fund.

(a) On or before the 16th day after the end of each month, the market administrator shall pay to each handler for payment to producers any amount by which the net obligation of such handler for the month is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat differential: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(b) On or before the 16th day after the end of each of the months of September, October, November and December, the market administrator shall pay out of the producer-settlement fund to (1) each handler on all milk for which payment is to be made to producers pursuant to § 946.80(b) for such month, and (2) to each cooperative association on all producer milk for which such association is receiving payments pursuant to § 946.80(c) for such month at the following rate per hundredweight: For the months of September through November, divide one-fourth of the aggregate amount set aside in the producer-settlement fund pursuant to § 946.71(d) during the immediately preceding period of April through July, and for the month of December, divide the balance remaining in such fund by the hundredweight of producer milk received by all handlers during the month (computed to the nearest cent per hundredweight).

§ 946.86 Adjustment of accounts.

(a) Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever such verification discloses that payment is due from the market administrator to any handler, pursuant to § 946.85, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by § 946.80, the handler shall pay any amount so due not later than the time of making payment to producers next following such disclosure.

(b) Overdue accounts: Any unpaid obligation of a handler or of the market administrator pursuant to §§ 946.80, 946.84, 946.85, 946.86(a), 946.87 or 946.88 shall be increased one-half of one percent each month or fraction thereof, compounded monthly, until such obligation is paid.

§ 946.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 946.80(b), shall deduct 5 cents per hundredweight, or such amount not in excess thereof as the Secretary may prescribe with respect to all milk received by such handler from producers (other than such handler's own farm production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Each cooperative association which is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, may file with a handler a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for whom such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer. In making payments to producers for milk received during the month, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, deductions in accordance with the association's claim and shall pay the amount deducted to the association within 15 days after the end of the month.

§ 946.88 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of the month, 3.0 cents per hundredweight, or such amount to be not in excess thereof as the Secretary may prescribe with respect to all receipts by such handler during the month of (a) milk from producers (including such handler's own farm production), and (b) other source milk classified as Class I milk pursuant to § 946.46. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers caused to be diverted by such cooperative association to a nonpool plant and milk received from producers at a pool plant of such cooperative association.

§ 946.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the

handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deductions or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 946.90 Effective time.

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 946.91.

§ 946.91 Suspension or termination.

Any or all provisions of this part, or any amendment to this part, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give and shall in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 946.92 Continuing power and duty.

(a) If upon the suspension of termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged, (2) from time to time account for all receipts and disbursements and, if so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this part.

§ 946.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, except §§ 946.34, 946.89, 946.91 through 946.93, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 946.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 946.101 Separability of provisions.

If any provision of this part, or its application to any person, or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 24th day of February 1960, to be effective on and after the 1st day of March 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-1807; Filed, Feb. 29, 1960; 8:45 a.m.]

[Milk Order 54]

PART 954—MILK IN THE DULUTH-SUPERIOR MARKETING AREA

Order Amending Order

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS, AND FACILITIES

CLASSIFICATION

MINIMUM PRICES

APPLICATION OF PROVISIONS

DETERMINATION OF UNIFORM PRICE

PAYMENTS

AUTHORITY: §§ 954.0 to 954.95 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 954.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Duluth-Superior marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to the quantities of milk specified in § 954.88.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than March 1, 1960.

(2) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued September 10, 1959, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued January 15 and 20, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling: It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Duluth-Superior marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 954.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 954.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 954.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this part.

§ 954.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 954.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association, to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

§ 954.6 Duluth-Superior marketing area.

"Duluth-Superior marketing area" hereinafter called the "marketing area" means all of the territory within Carlton County and the city of Duluth, in the State of Minnesota; and all of the territories within the counties of Ashland, Bayfield, and Douglas, in the State of Wisconsin.

§ 954.7 Pool plant.

A "pool plant" shall be any plant meeting the conditions of paragraph (a), (b), or (c) of this section except the plant of a producer-handler or one exempt under § 954.61;

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which fluid milk products are pasteurized or packaged and from which there is disposed of during the month as Class I milk on routes an amount equal to 50 percent or more of total receipts of Grade A milk at such plant from dairy farmers, from other plants, and from cooperative associations in their capacity as handlers and from which there is disposed of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such total receipts: *Provided,* That such Class I sales distribution in the marketing area averages at least 500 pounds per day;

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month 50 percent or more of its supply of Grade A milk from dairy farmers is moved to a distributing pool plant(s): *Provided,* That any supply plant which has qualified as a pool plant in each of the months of September, October, and November shall be a pool plant for each of the following months of December through August unless written request for nonpool status is furnished in advance to the market administrator: *And provided further,* That any plant from which milk was supplied to distributing plants and which was fully subject to the provisions of this part during each of the months of September, October, and November 1959, shall be a pool plant for each of the months through August 1960, unless written request for nonpool status is furnished to the market administrator;

(c) A plant(s) (1) which is approved by a duly constituted health authority

for the handling of Grade A milk, (2) which is operated by a cooperative association, and (3) from which the quantity of milk transferred by the association to plants specified in paragraph (a) of this section or delivered directly from the farm to such plants is equal to at least the following percentages, in the months indicated, of the quantity of Grade A milk delivered by all producers who are members of such association:

Month	*Minimum percentage*
September, October, November	40
April, May, June	20
All other months	30

The association shall furnish written notice to the market administrator specifying the plant(s) to be qualified pursuant to this paragraph (c) and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 7th day following the month to which such notice applies.

§ 954.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

§ 954.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant, or

(b) Any person who operates a nonpool plant from which fluid milk products are disposed of on routes in the marketing area; or

(c) A cooperative association with respect to the milk of producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.

§ 954.10 Producer.

"Producer" means any person, other than a producer-handler, who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) caused to be diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

§ 954.11 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions are met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of fluid milk products in bulk or in packaged form from pool plants of other handlers: *Provided,* That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 954.12 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 954.10.

§ 954.13 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except: (1) Receipts from other pool plants, (2) receipts from a cooperative association pursuant to § 954.9(d), or (3) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 954.14 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk or milk drinks not in hermetically sealed cans, cream, and fluid mixtures of cream and milk or skim milk, including reconstituted milk or skim milk, but not including frozen cream, aerated cream products, eggnog or ice cream and frozen dessert mixes.

§ 954.15 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery in bulk form to a pool plant or nonpool plant.

MARKET ADMINISTRATOR

§ 954.20 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 954.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administrator its terms and provisions;

(b) Receive, investigate, and report to the Secretary complaints of violations;

(c) Make rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 954.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date upon which he enters duty, and conditioned upon the faithful performance of his duties, and in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of the part;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay from the funds received pursuant to § 954.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 954.87, that are necessarily incurred by him in the maintenance and functions of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments of each handler, by audit as necessary of such handler's records and the records of any other person upon whose utilization the classification of skim milk and butterfat depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler or other person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 954.30 to 954.32 or payments pursuant to §§ 954.80 to 954.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and, mail to each handler at his last known address, the price determined for each month as follows:

(1) On or before the 6th day of each month, the Class I price and butterfat differential for the month, computed pursuant to §§ 954.51(a) and 954.52(a), respectively;

(2) On or before the 6th day of each month, the Class II price and butterfat differential for the preceding month, computed pursuant to §§ 954.51(b) and 954.52(b), respectively;

(3) On or before the 12th day of each month, the uniform price for producer milk computed pursuant to § 954.71, the location differential computed pursuant to § 954.81, and the butterfat differential computed pursuant to § 954.82, all for the preceding month;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations of this part as are appropriate to its purpose and functioning, and which do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 954.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler or a handler making payments pursuant to § 954.62(a), shall report to the market administrator, with respect to each plant, in the detail and on forms prescribed by the market administrator as follows:

(a) The receipts of milk from producers, the average butterfat test, and the pounds of butterfat contained therein;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 954.31 Payroll reports.

On or before the 25th day of each month, each handler except a producer-handler or a handler making payments pursuant to § 954.61 or § 954.62(a) shall submit to the market administrator his producer payroll for receipts during the preceding month which shall show:

(a) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer and cooperative association.

(b) The amount of payment to each producer, and

(c) The nature and amount of any deduction or charges involved in such payments.

§ 954.32 Other reports.

Each handler operating a pool plant, each producer-handler, and each handler making payments pursuant to § 954.62(a) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 954.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct date with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations, including any deductions, and the disbursement of money so deducted.

§ 954.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 954.40 Basis of classification.

All skim milk and butterfat required to be reported pursuant to § 954.30 shall be classified by the market administrator pursuant to the provisions of §§ 954.41 through 954.46.

§ 954.41 Classes of utilization.

The classes of utilization of milk shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat (1) disposed of in the form of fluid milk products except those classified pursuant to paragraph (b) (2) and (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce a product other than a fluid milk product, (2) contained in inventory of fluid milk products on hand at the end of the month, (3) disposed of as livestock feed or skim milk dumped, subject to prior notification to and inspection (at his discretion) by the market administrator, (4) in shrinkage allocated to producer milk (except with respect to milk diverted to a nonpool plant pursuant to § 954.10) that is not in excess of 2 percent of the receipts of skim milk and butterfat, respectively, in producer milk plus 1.5 percent of receipts of skim milk and butterfat, respectively, received in bulk tank from pool plants, or received from a cooperative association pursuant to § 954.9(d) less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank to pool plants, and (5) in shrinkage of other source milk.

§ 954.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting quantities between the receipts of skim milk and butterfat, respectively: (1) In the quantity of milk from producers (except with respect to milk diverted to a nonpool plant pursuant to § 954.10), in bulk from the pool plants of other handlers, and from cooperative associations pursuant to § 954.9(d) and (2) in other source milk received in the form of fluid milk products.

§ 954.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk and butterfat proves to the market administrator that it should be classified otherwise; and

(b) Any skim milk and butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 954.44 Transfers.

Skim milk and butterfat transferred or diverted by a handler shall be classified:

(a) As Class I milk if transferred to the pool plant of another handler unless utilization in Class II is mutually indicated to the market administrator in the reports submitted by both handlers for the month in which such transfer occurred, but in no event shall the amount classified in either class exceed the total use in such class at the transferee plant: *Provided,* That if other source milk has been received by either or both handlers, the milk so transferred shall be classified so as to return the higher class utilization to producer milk;

(b) As Class I milk if transferred or diverted to a producer-handler;

(c) As Class I milk if transferred or diverted to a nonpool plant located 250 or more miles from the courthouse in the city or Duluth, Minnesota, by the shortest highway distance as determined by the market administrator;

(d) As Class I milk if transferred or diverted to a nonpool plant located less than 250 miles from the courthouse in the city of Duluth, Minnesota, unless (1) the transfer or diversion is in producer cans or in bulk, (2) the handler claims assignment as Class II in the reports submitted pursuant to § 954.30, and (3) the market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at the plant, in which case the classification of all skim milk and butterfat received at such nonpool

plant shall be determined and that transferred or diverted from the pool plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I, receipts at such plant (1) directly from dairy farmers who hold permits to supply Grade A milk and who the market administrator determines constitute the regular source of supply, and (2) from plants subject to other orders issued pursuant to the Act which are classified as Class I by such other order;

(e) If any skim milk or butterfat is transferred to a second nonpool plant, under paragraph (d) of this section, the same conditions of audit, allocation, and classification shall apply.

§ 954.45 Computation of milk in each class.

For each month the market administrator shall correct mathematical and other obvious errors in the monthly report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for each handler: *Provided,* That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler to fortify or to reconstitute fluid milk products, the total pounds of skim milk computed for the appropriate class of use shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids.

§ 954.46 Allocation of skim milk and butterfat classified.

For each handler the market administrator shall determine the classification of milk received from producers in the following manner:

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds in Class II the pounds of skim milk assigned to producer milk pursuant to § 954.41(b)(4).

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk contained in other source milk received from a plant at which the handling of milk is fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk contained in receipts from other pool plants, in accordance with its classification as determined pursuant to § 954.41(a);

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in each class, in series beginning with the lowest-priced utilization. The amounts so subtracted shall be called "overage";

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Determine the weighted average butterfat content of the milk received from producers and allocated to Class I milk and Class II milk pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 954.50 Basic formula price.

The basic formula price per hundredweight of milk to be used in determining class prices for each month shall be the higher of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to paragraphs (a) and (b) of this section:

(a) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator by the Department of Agriculture or by the companies indicated below:

COMPANY AND LOCATION

Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) A price per hundredweight computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the delivery period: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest full cent.

§ 954.51 Class prices.

Subject to the provisions of §§ 954.52 and 954.53 the minimum prices per hundredweight to be paid by each handler for milk received at his plant during the month shall be as follows:

(a) *Class I milk.* The Class I price shall be the basic formula price for the preceding month plus the following amounts for the periods indicated:

Month	*Amount*
December through June	$0.75
July through October	1.15
November	0.95

(b) *Class II milk.* The Class II price shall be equal to the basic formula price specified in § 954.50(b) for the same month.

§ 954.52 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to § 954.51 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the month multiplied by the applicable factor listed and rounded to the nearest one-tenth cent:

(a) *Class I milk.* Multiply such price for the preceding month by 0.13; and

(b) *Class II milk.* Multiply such price for the current month by 0.12.

§ 954.53 Location differentials to handlers.

For milk which is received at a plant located more than 55 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minn., or Ashland, Wis., whichever is closer, and which is classified as Class I milk, the prices computed pursuant to § 954.51(a) shall be reduced by 8 cents if such plant is located more than 55 miles but not more than 65 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles: *Provided,* That for the purposes of calculating such differential, transfers between approved plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plants, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence at which the lowest location differential credit would apply.

§ 954.54 Equivalent prices.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specific price

is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to, or comparable with, the price specified.

APPLICATION OF PROVISIONS

§ 954.60 Producer-handler.

Sections 954.40 through 954.46, 954.50 through 954.54, 954.70 through 954.72, and 954.80 through 954.88 shall not apply to a producer-handler.

§ 954.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless (a) more Class I milk is disposed of from such plant in the Duluth-Superior marketing area than in the marketing area regulated pursuant to such other order, or (b) the Secretary determines that the applicable order should more appropriately be determined on some other basis.

§ 954.62 Handler operating a nonpool plant.

In lieu of the payments required pursuant to §§ 954.80 to 954.88, each handler, other than a producer-handler or a handler exempt pursuant to § 954.61, who operates a nonpool plant during the month, shall pay to the market administrator on or before the 25th day after the end of the month the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 954.30, to pay the amounts computed pursuant to paragraph (b) of this section:

(a) The following amounts:

(1) To the producer-settlement fund, an amount equal to the value of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area at the Class I price applicable at the location of such handler's plant, less the value of such skim milk and butterfat at the Class II price; and

(2) As his share of the expense of administration, the rate specified in § 954.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) To the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 954.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant or at a plant which serves as a supply plant; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 954.88 had such plant been a pool plant, except that if such is also a nonpool plant under another order issued pursuant to the Act, and his Class I sales in such other marketing area exceed those made in the Duluth-Superior marketing area, the payments due under this subparagraph shall be reduced by the amount of any administrative expense payments under the other order.

DETERMINATION OF UNIFORM PRICE

§ 954.70 Computation of the value of producer milk for each handler.

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 954.46 by the applicable class price and total the resulting amounts.

(b) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculation pursuant to § 954.46 (a) (5) and (b) of the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 954.46(a) (5) and the corresponding step of § 954.46 (b) for the current month, whichever is less;

(c) For any skim milk or butterfat subtracted from Class I milk pursuant to § 954.46(a) (2) and the corresponding step of § 954.46(b), and pursuant to § 954.46(a) (5) and the corresponding step of § 954.46(b) which is in excess of the sum of (1) the skim milk and butterfat applied pursuant to paragraph (b) of this section and (2) any skim milk and butterfat subtracted from Class II pursuant to § 954.46(a) (3) and the corresponding step of § 954.46(b) of the preceding month, add an amount equal to the difference between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided,* That such calculation shall not apply if the total receipts of producer milk at pool plants during the month are less than 110 percent of the total Class I utilization of such plants for the month.

(d) Add an amount computed by multiplying the pounds of any overage deducted from any class pursuant to § 954.46(a) (7) and the corresponding step of § 954.46(b) by the applicable class price.

§ 954.71 Computation of the uniform price.

The market administrator shall compute the uniform price per hundredweight of producer milk as follows:

(a) Combine into one total the values computed pursuant to § 954.70 for the producer milk of all handlers who submitted reports prescribed in § 954.30, and who are not in default of payments pursuant to §§ 954.80 and 954.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential pursuant to § 954.82 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deduction to be made from producer payments for location differentials pursuant to § 954.81;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

The resulting figure shall be the uniform price per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants, f.o.b. the marketing area.

§ 954.72 Notification of handlers.

On or before the 13th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price computed pursuant to § 954.71 and the location and butterfat differentials to producers as computed pursuant to §§ 954.81 and 954.82; and

(c) The amounts to be paid by such handler pursuant to §§ 954.84, 954.86, and 954.87, and 954.88 and the amount due such handler pursuant to § 954.85.

PAYMENTS

§ 954.80 Time and method of payment.

On or before the 20th day after the end of each month, each handler shall make payments as follows:

(a) To each producer from whom milk was received during the month at not less than the uniform price per hundredweight computed pursuant to § 954.71 subject to the butterfat differential computed pursuant to § 954.82 and the location adjustment computed pursuant to § 954.81 and less (1) marketing service deductions pursuant to § 954.87 and (2) other proper deductions: *Provided,* That with respect to each deduction for hauling, or for any other purpose, made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized, and properly chargeable to the producer: *And provided further,* That if by such date such handler has not received full payment from the market administrator pursuant to § 954.85, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payment pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) A handler who has not received on the 20th day after the end of each month the balance of the payments due him from the market administrator shall not be deemed to be in violation of paragraph (a) of this section if he reduced his payments to producers by not more than the amount of the reduction payment from the producer-settlement fund. The handler shall, however, complete such payments not later than the date for making such payments next following

receipt of the balance from the market administrator.

(c) On or before the 15th day after the end of each month, to each cooperative association with respect to receipts of milk for which such cooperative association is defined as the handler not less than the value of such milk at the applicable class prices.

§ 954.81 Location differential to producers.

For milk which is received at a pool plant located more than 55 miles but not more than 65 miles by shortest highway distance, as determined by the market administrator, from the courthouse at Duluth or at Ashland, Wisconsin, whichever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 65 miles.

§ 954.82 Butterfat differential to producers.

The applicable uniform price to be paid producers pursuant to § 954.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 954.52, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 954.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 954.62, 954.84 and 954.86, and out of which he shall make payments to handlers pursuant to §§ 954.85 and 954.86: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 954.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk, as computed pursuant to § 954.70, for such month, is greater than the amount owed by him for such milk at the appropriate uniform price determined pursuant to § 954.80.

§ 954.85 Payment out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler any amount by which the value of his producer milk, computed pursuant to § 954.80, for such month is less than the amount owed by him for such milk at the appropriate uniform prices adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 954.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount due, and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 954.87 Marketing services.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 954.80, with respect to all milk received from each producer at a plant not operated by a cooperative association qualified under paragraph (b) of this section of which such produced is a member, shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator subject to review by the Secretary) from the payments made direct to such producers and such handler shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to verify the accuracy of weights, sampling and testing of milk received from such producers.

(b) In the case of milk of producers who are members of a cooperative association which is actually performing the services described in paragraph (a) of this section, which is received at a plant not operated by such cooperative association, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made direct to such producers pursuant to § 954.80, as are authorized by such producers and, on or before the 15th day after the end of such month, pay such deductions to such cooperative association.

§ 954.88 Expense of administration.

As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, an amount not exceeding 4 cents per hundredweight with respect to (a) all milk received by him during such month from producers including milk of such handler's own production, (b) other source milk received at a pool plant and classified as Class I, and (c) the quantities of milk at handlers' nonpool plants as specified in § 954.62.

§ 954.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 954.90 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 954.91.

§ 954.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 954.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 954.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 954.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 954.95 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be effected thereby.

Issued at Washington, D.C., this 24th day of February 1960, to be effective on and after the 1st day of March, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-1808; Filed, Feb. 29, 1960; 8:45 a.m.]

[Milk Order 65]

PART 965—MILK IN CINCINNATI, OHIO, MARKETING AREA

Order Amending Order

§ 965.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Cincinnati, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than March 1, 1960.

(2) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued January 27, 1960, and the decision of the Assistant Secretary containing all amendment provisions of this order issued February 15, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

(c) *Determination.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. The order is hereby amended as follows:

1. Delete § 965.10(c) and substitute therefor the following:

(c) If from a dairy farmer whose milk previously has been received at a pool plant, is either (1) diverted during any of the months of March through August to a nonpool plant for the account of a handler as defined in § 965.11(a)(1); (2) diverted during the month to a nonpool plant for the account of a handler as defined in § 965.11(b); or (3) diverted during the month from a pool plant to another pool plant for the account of a handler as defined in § 965.11 (a)(1) or (b) for not more than two consecutive days of delivery and not more than 10 days of delivery during the month.

2. In § 965.11(b) delete "to a nonpool plant".

3. In § 965.12(b) delete "to a nonpool plant" as it appears therein preceding the proviso.

4. Delete § 965.42(b) and substitute therefor the following:

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in producer milk (including producer milk physically received as diverted milk from another pool plant and excluding producer milk diverted to another pool plant) and other source milk received in the form of a fluid milk product in bulk.

5. From the schedules in §§ 965.53 and 965.75 delete "More than 20 but less than 30------4.0".

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Issued at Washington, D.C., this 24th day of February 1960 to be effective on and after the 1st day of March 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-1809; Filed, Feb. 29, 1960; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER H—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

PART 155—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA; INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

Miscellaneous Amendments

Correction

In F.R. Doc. 60-1467, appearing at page 1356 of the issue for Tuesday, Feb.

16, 1960, the "50 percent" in the first sentence of § 155.29(b) should read "30 percent".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 168; Special Civil Air Reg. 438]

PART 60—AIR TRAFFIC RULES

Los Angeles International Airport Traffic Pattern Area Rules

On October 28, 1959, notice was given in Draft Release No. 59-17 (24 F.R. 9020) that the Federal Aviation Agency had under consideration the adoption of a Special Civil Air Regulation establishing special airport traffic pattern rules for the Los Angeles International Airport area. This regulation would establish a specific area of airspace surrounding the Los Angeles International Airport to be designated as an airport traffic pattern area within which special aircraft operating rules would apply. These operating rules were developed in order to enhance the safety of all aircraft operations in this area and to provide for the protection of persons and property on the ground.

The nature of comments received in response to the draft release could be classified in two broad categories; those submitted from aviation community interests which addressed the technical aspects of the proposed aircraft operating rules, and those submitted from other interested persons which addressed the aircraft noise abatement aspects of the proposed rule.

Many of the comments of this latter category contended that the proposed rules did not "go far enough" and urged that much more be done to provide relief to nearby communities from the aircraft noise problem. While comments such as these were prevalent, other comments recognized that the rules, which deal with traffic pattern flight procedures would result in an alleviation of the problem insofar as practical air traffic rules could provide. For example, the comment of the City Council of Inglewood stated, in part, that the proposed regulation "* * * is, and will be, a long step toward the ultimate solution of the critical noise problem in this city; * * *". The City Council urged the early adoption of the proposed regulation.

The Agency would like to emphasize the point that the proposed rules outlined in Draft Release No. 59-17, were not intended to be representative of a complete Agency answer to the aircraft noise problem. These rules are an initial product of an Agency-wide program that seeks the alleviation of aircraft noise through the various areas of purview of each particular Bureau in the Agency. The Agency has been studying the fundamental problems of aircraft noise in airport communities to attack the problem on a broad scale. Basic research is under way on the fundamentals of community objections to aircraft noise to determine how to improve the designs of aircraft and their flight operational techniques to lower noise levels and, where possible, alter the noise characteristics to make them less annoying. As part of this intensive research program, a wide number of community reactions to aircraft noise studies have been made, the results of which are being regularly discussed with the aircraft operators for consideration in the design of new aircraft and engines.

While all jet transport aircraft in civil operation are equipped with engine noise suppressors, which are heavy and costly, the Agency is continuing its studies of jet noise suppression methods to further minimize the noise problem. Ground engine mufflers are also being analyzed as these devices are particularly pertinent to the engine run-up maintenance procedures employed at airports. Studies of the new turbofan engines are also being made to assure that these engines will produce less noise on both take off and landing.

Studies are also under way to determine the least noisy methods and techniques for the take off and approach to landing of civil jet transport aircraft. Camera studies are being continued to determine the extent of operational variations between operators and pilots along with the accuracy to which the aircraft is flown. Airspeed indicators, artificial horizons, and angle of attack indicators with improved accuracy and readability are being studied to permit jet aircraft to be flown to the optimum performance consistent with safety and noise abatement.

Commercial air carriers based at many major airport terminals have been requested to remove their flight training activities to other airports where such operations may be conducted over less congested areas without creating undue noise annoyance. These requests were made primarily on the basis of safety, in that simulated engine-out maneuvers and the conflict of training flights with normal heavy traffic at such airports constitute an undue hazard as well as an unnecessary source of noise annoyance.

Additional navigation aids for instrument approach procedures at major airport terminals have been established so that approaches during limited weather conditions may be made from more than one direction. This eliminates the necessity for circling approaches around the airport at low altitudes since straight-in approaches to land can be made from more than one direction and is expected to contribute significantly to the further alleviation of the noise problem.

For operations in good weather conditions, considerable attention is being devoted to the development of visual glide path indicators. These devices will provide accurate visual guidance in the landing approach so as to assure that aircraft which create a difficult noise problem will not be flown at an altitude lower than that deemed acceptable throughout the approach. Five types of visual glide indicators are being installed at the National Aviation Facilities Experimental Center for testing and evaluation. One system is currently under active test and one will soon be ready for actual test. Within a few months, all five systems will be under simultaneous evaluation.

Studies are also under way by the Agency to determine the practicability of expanding the scope of airport master plans to include buffer zones designed to cushion the effects of aircraft noise. Consideration is also being given to recommending to airport owners and other public agencies, the utilization by them of local zoning powers to encourage land uses of areas contiguous to airports in a manner mutually beneficial to the community and airport activities.

The diligent pursuit of these and other noise alleviation projects within the Agency coupled with the continued and conscientious efforts of the Aviation community, particularly the aircraft operators and local airport authorities, justify a confidence that significant progress will be made in the alleviation of the aircraft noise problem.

With respect to the comments received from the Aviation Community which addressed the technical operating provisions of the proposed rules, the consensus indicated an opposition to the principle of establishing separate Special Civil Air Regulations for each airport that may have a noise problem. It was contended that the inflexibility inherent in the establishment of mandatory operating procedures in a Civil Air Regulation could compound the complexities involved in further developing and revising noise abatement flight techniques. It was held that the establishment of detailed procedures designed to minimize the noise problem at particular airports could best be devised and more readily improved if developed on a local basis. The Agency finds merit in this proposition and consideration is being given to drafting an air traffic rule of general applicability which will standardize all controlled airport traffic pattern rules to the extent practicable and provide for the establishment of detailed airport procedures on a local basis.

Many comments were directed to the proposed provision which would require jet aircraft to maintain an altitude at or above the ILS glide path. The view was expressed that the precise 3° angle should not be specified and should not apply to the point of touchdown. Further, the approach altitude requirement ought be applicable to piston engine aircraft as well as jet aircraft. The proposal has been modified in light of these comments and the rule is phrased to require descent at or above the glide path setting by all large aircraft equipped with ILS instrumentation. The rule applies only until the aircraft reaches the middle marker so as to provide for a safe "flare-out" for a landing by the pilot.

The proposed restriction on the use of the airport by jet aircraft between the hours of 10 p.m. and 7 a.m. under certain surface wind conditions has also been reevaluated and this provision has been omitted from the rule. The practice of prohibiting the use of various

airports during certain specific hours could create critically serious problems to all air transportation patterns. The network of airports throughout the United States and the constant availability of these airports are essential to the maintenance of a sound air transportation system. The continuing growth of public acceptance of aviation as a major force in passenger transportation and the increasingly significant role of commercial aviation in the nation's economy are accomplishments which cannot be inhibited if the best interest of the public is to be served. It was concluded therefore that the extent of relief from the noise problem which this provision might have achieved would not have compensated the degree of restriction it would have imposed on domestic and foreign Air Commerce.

Recommendations were received from aircraft operators at Hughes, Hawthorne and Santa Monica Airports for modifications to the proposed rules which would provide for a more flexible operation to and from those airports. Some of these recommendations indicated a misunderstanding of the proposed rules, especially the applicability of the two-way radio requirement. The proposal did not provide that two way communication had to be established with the Los Angeles tower if an aircraft were being flown to or from any airport other than Los Angeles International Airport within the Los Angeles traffic pattern area provided the appropriate entry and departure areas were utilized. For example, aircraft may enter the southeast sector of the Los Angeles traffic pattern area and land at Hawthorne Airport without communicating with the Los Angeles tower. Likewise aircraft may depart Hawthorne to the south without communicating with the Los Angeles tower. It will also be noted that the proposed departure procedure from Hawthorne has been modified to permit turns as early as practicable after a take-off to the west.

It should also be made clear that all the required traffic pattern area entry and departure procedures, altitudes as well as routes, may be superseded by authorization of the control tower. The principal purpose in adopting these procedures is to establish a standardized, segregated flow of air traffic at these various airports which would promote the controllers capability to provide for a safe and expeditious movement of traffic in the area. The rules intend that the controller be provided the flexibility to authorize flight operations in such manner as is best suited to the instant state of the traffic situation.

Recommendations for a re-designation of the traffic pattern area to exclude the downwind leg portion of the Santa Monica traffic pattern were also received. However, the advantages of a standardized dimension of the traffic pattern area are considered more significant than locally different dimensions especially since national application of the concept is being considered. Further, the rules herein adopted do not contemplate the imposition of a radio requirement or any other restriction to Santa Monica Airport traffic other than that which provides a degree of segregation between Hughes Airport traffic and traffic on the downwind leg of the Santa Monica Airport.

As stated above, consideration is being given to the development of an amendment to the Air Traffic Rules, Part 60, of the Civil Air Regulations, which would provide for a national application of standardized controlled airport traffic pattern rules. It is expected that this proposed amendment would accommodate locally developed detailed airport procedures and provide for the ready implementation of revisions to these local procedures. Further, such a general rule would minimize a requirement for several special rules at individual airports.

In consideration of the foregoing, the following Special Civil Air Regulation is hereby adopted to become effective April 4, 1960.

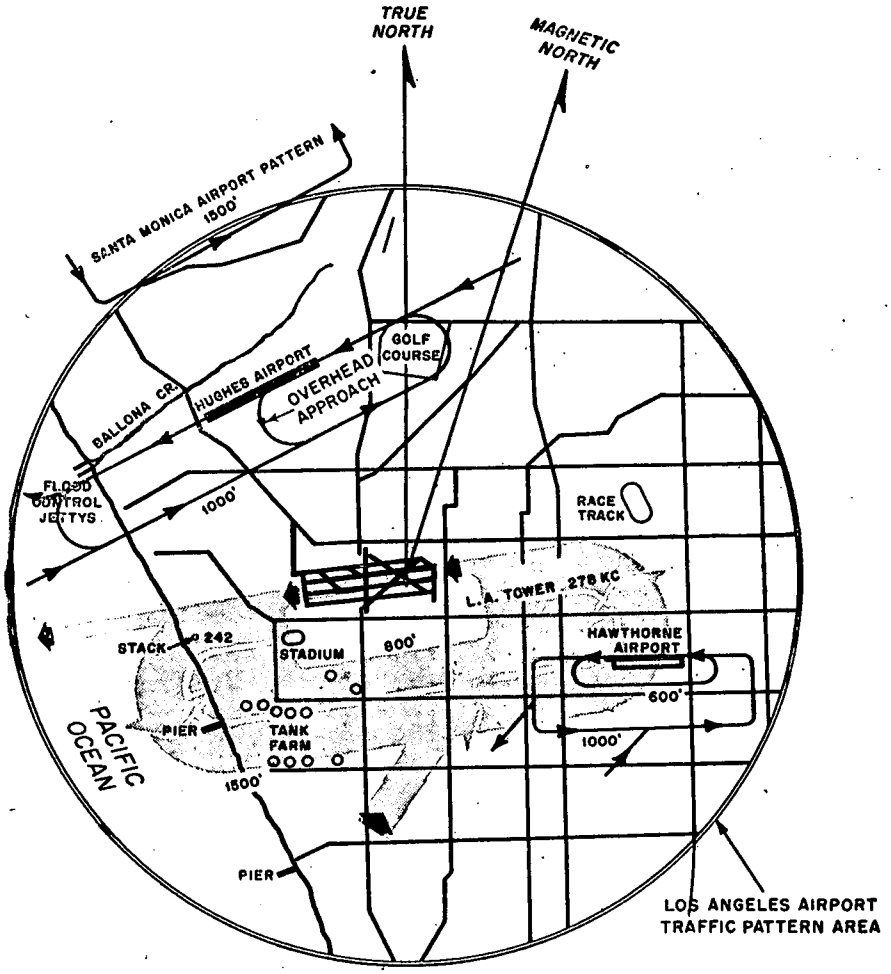
LOS ANGELES INTERNATIONAL AIRPORT TRAFFIC PATTERN AREA RULES

Scope and applicability. All aircraft operating within the airspace of the Los Angeles International Airport Traffic Pattern Area shall be operated in accordance with the following rules unless otherwise authorized by air traffic control. As used in these rules, the Los Angeles International Airport Traffic Pattern Area shall include the airspace described by a five mile horizontal radius from the geographical center of that airport and extending upwards from the surface to, but not including 2,000 feet. Additionally, large aircraft as used in this regulation shall mean those aircraft of 12,500 pounds or more maximum certificated take-off weight.

(a) *General rules*—(1) *Avoidance of Traffic Pattern Area.* En route aircraft shall be flown so as to avoid the Los Angeles International Airport Traffic Pattern Area.

(2) *Communications.* Two-way radio communication shall be established with the Los Angeles International airport traffic control tower prior to entering the traffic pattern area for a landing at Los Angeles International Airport and prior to take off from that airport, except that an aircraft not equipped with functioning two-way radio may take off or land at the Los Angeles International Airport if prior authorization from the Los Angeles International Airport traffic control tower has been obtained.

(3) *Aircraft Operating Within the Traffic Pattern Area.* All aircraft taking off from or landing at the Los Angeles International, Hawthorne or Santa Monica Airports shall be operated within the Los Angeles Airport Traffic Pattern Area in conformance with the traffic pattern rules as prescribed herein, including the altitudes and directions of flight therefor.



APPROXIMATE FLIGHT PATHS
TRAFFIC PATTERN NO. 25 L / 25 R

NOTE: For the convenient reference of the pilot, there is attached to this regulation a chart which depicts approximate flight paths of the traffic patterns for such airports.

(b) *Traffic pattern rules for Los Angeles International Airport*—(1) *Traffic pattern entry.* All fixed-wing aircraft, except those operating on IFR flight plans, landing at the Los Angeles International Airport, shall enter the Traffic Pattern Area in the northeast, southeast or southwest sectors of that area and at an angle of approximately 45 degrees to the downwind leg of the runway in use, and unless the VFR distance-from-cloud criteria require otherwise, at the following altitudes:

(i) Large aircraft shall enter the traffic pattern area at an altitude of at least 1,500 feet above the surface. After entry, an altitude of at least 1,500 feet shall be maintained as long as practicable prior to landing.

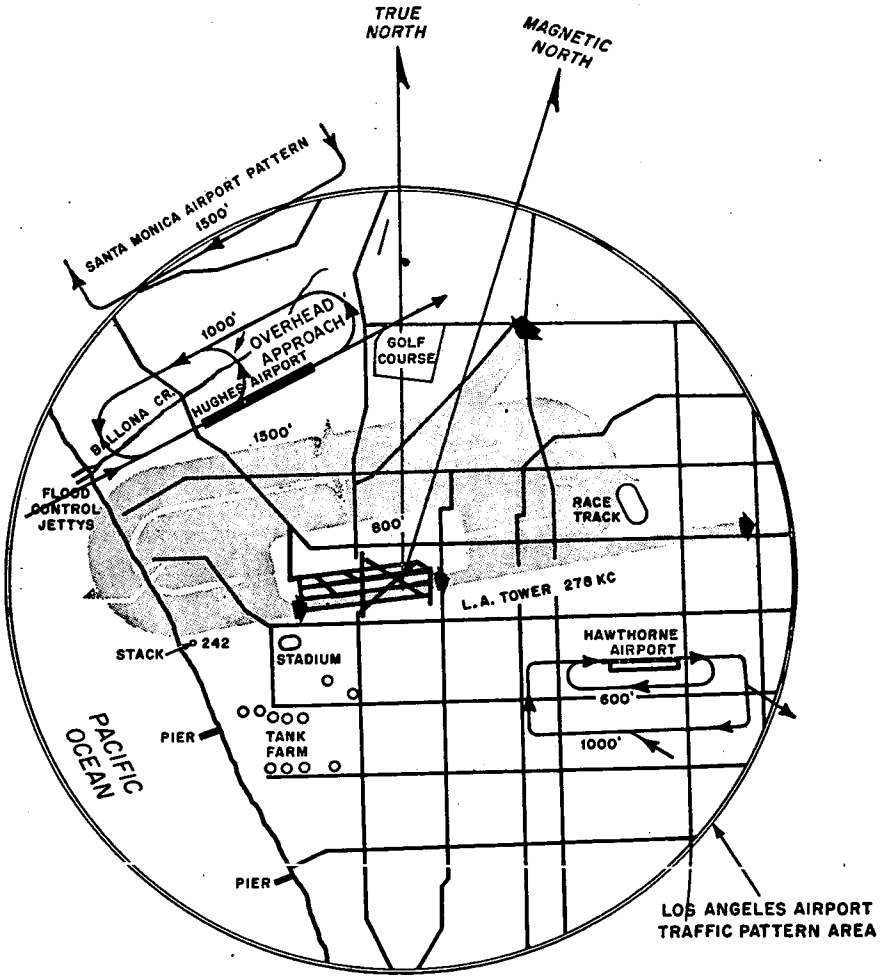
(ii) Small aircraft shall enter the traffic pattern area at an altitude below 1,200 feet but not less than 1,000 feet above the surface. After entry, an altitude between 800 and 1,000 feet shall be maintained as long as practicable prior to landing.

(2) *Helicopters.* Helicopters shall cross the traffic pattern at approximate right angles to the upwind or downwind leg of the Los Angeles Airport traffic pattern at an altitude below that being utilized by fixed-wing aircraft in the pattern. Thereafter, approach to land shall be made in a manner which will avoid the flow of fixed-wing aircraft.

(3) *Departures.* Unless the VFR distance-from-cloud criteria require otherwise, fixed-wing aircraft shall be flown so as to conform to the following:

(i) Aircraft taking off to the West shall climb as rapidly as practicable on the departure runway heading until past the shore line. Such aircraft shall not recross the shore line at less than 1,500 feet.

(ii) Aircraft taking off to the East shall climb to at least 1,500 feet as rapidly as practicable.



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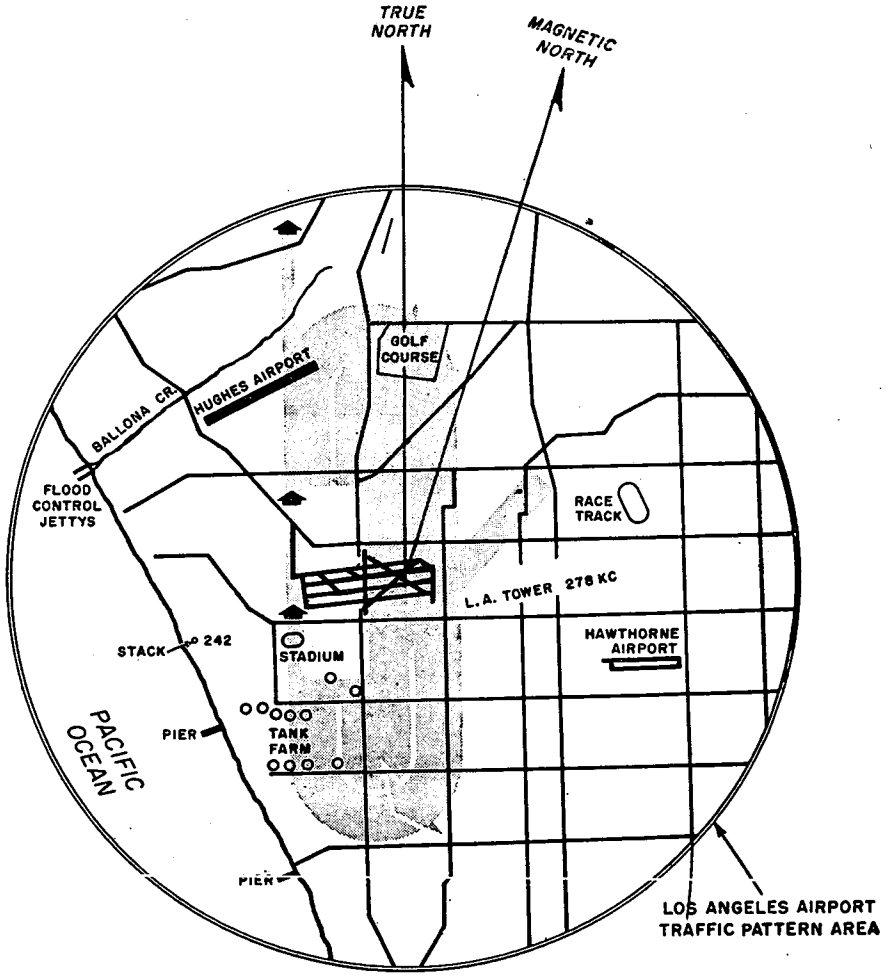


APPROXIMATE FLIGHT PATHS
TRAFFIC PATTERN NO. 34

(iii) Aircraft taking off to the North or South shall climb straight ahead to 1,500 feet as rapidly as practicable before proceeding on course.

(4) *Special operating rules for large fixed-wing aircraft.* When the applicable aircraft performance limitations permit, all landings and take-offs shall be made in a westerly direction when the surface wind velocity is less than five knots and the runways are dry. If this direction of take off or landing is not considered by a pilot to be suitable for the safety of the particular flight operation involved, the pilot may use another direction for take off or landing. In such case, a written report of the reasons for such operation shall be forwarded within 48 hours to the Chief, Flight Standards Division, Federal Aviation Agency, Region Four, Los Angeles, California.

(i) *Final approach.* When approaching to land on a runway served by a functioning instrument landing system, large aircraft equipped with functioning instrument landing system equipment shall remain at or above the glide slope altitude between the outer marker and the middle marker.

NOTE: Precision radar advisory service is available to assist pilots to conform with this requirement.

(c) *Traffic pattern rules for Hawthorne Airport*—(1) *Entry.* All fixed-wing aircraft landing at Hawthorne Airport shall enter the Los Angeles International Airport Traffic Pattern Area in the southeast sector of that area and at an angle of approximately 45 degrees to the downwind leg of the Hawthorne traffic pattern. Helicopters shall be flown in a manner which avoids the flow of fixed-wing aircraft. Unless the VFR distance-from-cloud criteria require otherwise, fixed-wing aircraft shall be flown at the following altitudes:

(i) Large aircraft shall enter the traffic pattern area at an altitude of at least 1,200 feet above the surface. After entry, an altitude of at least 1,000 feet shall be maintained as long as practicable prior to landing.

(ii) Small aircraft shall enter the traffic pattern area at an altitude of at least 1,000 feet above the surface. After entry, an altitude of at least 600 feet shall be maintained as long as practicable prior to landing.

(2) *Departures.* Aircraft departing from the Hawthorne Airport shall climb as rapidly as practicable to at least 600 feet unless the VFR distance-from-cloud criteria require otherwise, and shall depart the traffic pattern area to the South.

(d) *Traffic pattern rules for Hughes Airport*—(1) *Entry.* All aircraft landing at Hughes Airport shall enter the Los Angeles International Airport Traffic Pattern Area in the northeast or northwest sectors of that area. Fixed-wing aircraft shall enter traffic on a flight path parallel to the Hughes Airport runway. Helicopters shall be flown in a manner that avoids the flow of fixed-wing aircraft. Unless the VFR distance-from-cloud criteria require otherwise, fixed-wing aircraft shall enter traffic at an altitude of at least 1,000 feet. When entry is made at 1,000 feet the altitude of 1,000 feet shall be maintained as long as practicable.

(2) *Departures.* Aircraft departing from the Hughes Airport shall climb as rapidly as practicable to 1,000 feet.

(e) *Traffic pattern rules for Santa Monica Airport.* Aircraft operating in that portion (downwind leg) of the Santa Monica Airport traffic pattern which may extend into the Los Angeles traffic pattern area shall be flown so as to remain within one and one-half miles of the Santa Monica Airport.

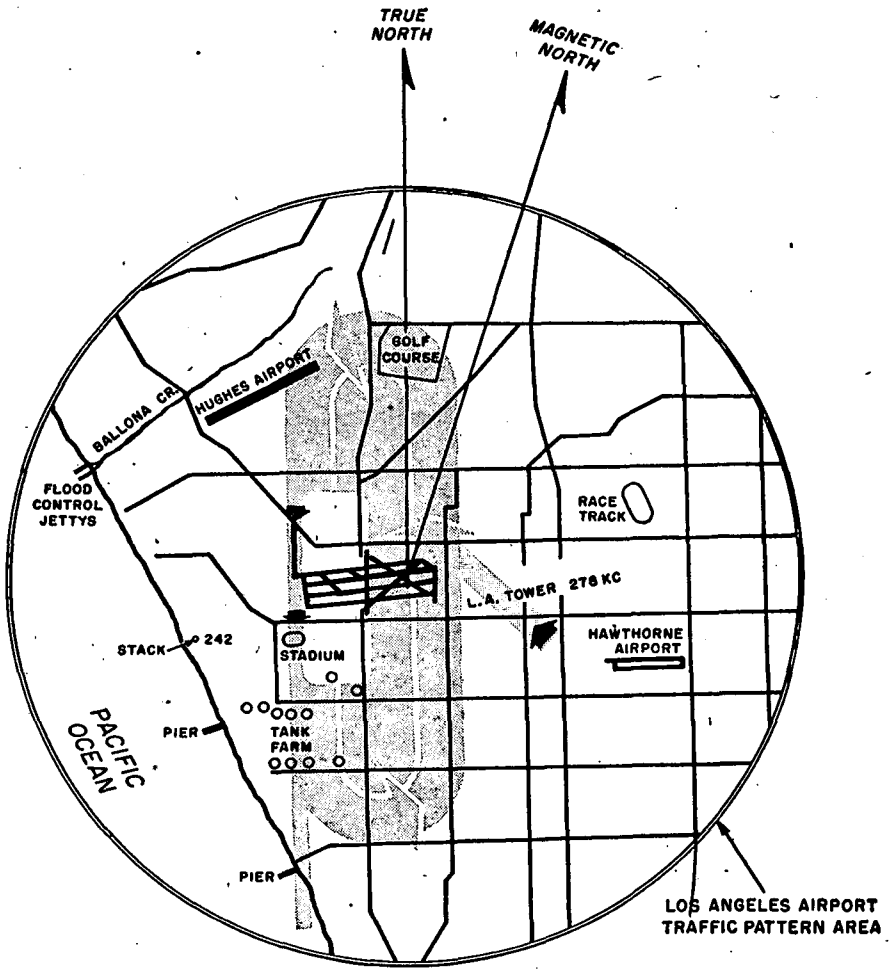
This Special Civil Air Regulation shall remain in effect until superseded or rescinded by the Administrator.

(Secs. 313(a) and 307 of the Federal Aviation Act of 1958, 72 Stat. 752, 749, 49 U.S.C. 1354, 1348)

Issued in Washington, D.C., on February 23, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60-1732; Filed, Feb. 29, 1960; 8:45 a.m.]



APPROXIMATE FLIGHT PATHS
TRAFFIC PATTERN NO. 16

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—SPECIAL REGULATIONS

[Reg. No. SPR-3]

PART 375—NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Revision of Economic Regulatory Provisions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of February 1960.

A Notice of Proposed Rule Making dated June 19, 1959, was published in the FEDERAL REGISTER on June 27, 1959, 24 F.R. 5243, and circulated under Docket 10647. The proposal concerned the revision of the economic regulatory portions of Part 375, Subparts D and E, and related provisions.

These provisions had been transferred to Part 375 from Part 190 of the Civil Air Regulations without substantive change. At this time it is deemed advisable to strengthen and clarify the provisions which delimit the scope of authorizations to be issued under this part and exclude therefrom operations in air transportation, that is, in common carriage to, from or within the United States. It also appears necessary to amplify the provisions requiring record retention and reports concerning transportation of passengers or cargo for remuneration or hire, in order to enable the Board to better evaluate the economic results of authorizations issued and to police observance of applicable legal limitations. Furthermore, it appears expedient to rearrange the provisions which grant blanket operating authority, as well as those which deal with operations requiring individual permits, in a more logical sequence. No substantial change of policy is intended by these amendments but they are expected to result in better understanding and stricter observance of the policy and principles which have been adopted by the Board in implementing the underlying legislation.

Comments have been received only respecting the statement that authorizations to engage in continuing cargo operations for contractors will be limited to 10 contractors in any 12-month period, and this provision has been clarified to the effect that it is illustrative only and does not obligate the Board to permit operations for that many contractors regardless of other circumstances (§ 375.42(b)(3)(ii)). Interested persons thus have been afforded opportunity to participate in the formulation of this revision and due consideration has been given to all relevant matter presented.

Accordingly, the Board hereby amends Part 375 of its Special Regulations (14 CFR Part 375), effective March 30, 1960:

§ 375.1 [Amendment]

1. By amending § 375.1:

a. By inserting between present paragraphs (a) and (b) two new paragraphs (b) and (c) to read:

(b) "Administrator" shall mean the Administrator of the Federal Aviation Agency.

(c) "Air transportation" means the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in interstate, overseas, or foreign commerce (see section 101(10) and (21) of the Federal Aviation Act, 49 U.S.C. 1301).

b. By inserting a new paragraph between present paragraphs (b) and (c) to read:

(e) "Commercial air operations." Commercial air operations shall mean operations by foreign civil aircraft engaged in flights for the purpose of crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting or similar agricultural and industrial operations performed in the United States, and any operations for remuneration or hire to, from or within the United States including air carriage involving the discharging or taking on of passengers or cargo at one or more points in the United States, including carriage of cargo for the operator's own account if the cargo is to be resold or otherwise used in the furtherance of a business other than the business of providing carriage by aircraft, but excluding operations pursuant to foreign air carrier permits issued under section 402 of the Act and all other operations in air transportation.

c. By redesignating present paragraphs (b) to (g) of § 375.1 accordingly.

2. By amending § 375.2 to read as follows:

§ 375.2 Applicability.

The provisions of this part regulate the admission to, and navigation in, the United States of foreign civil aircraft other than aircraft operated by holders of foreign air carrier permits issued by the Board pursuant to section 402 of the Act under the authority of such permits. This part also contains provisions which specify the extent to which certain classes of flight operations by foreign civil aircraft may be conducted, and the terms and conditions applicable to such operations. Nothing in this part shall authorize any foreign aircraft to engage in air transportation nor be deemed to provide for such authorization to be issued by the Board.

3. By amending Subpart C—Rules Generally Applicable by adding a new section to read:

§ 375.25 Unauthorized operations.

Foreign civil aircraft which are not authorized to be navigated pursuant to Subpart B of this part in combination with Subpart D or E of this part shall not be navigated in the United States. Commercial air operations shall not be undertaken without a permit issued therefor by the Board.

4. By striking present Subpart D and inserting a new Subpart D to read as follows:

Subpart D—Operations Authorized by Regulation

§ 375.30 Operations other than commercial air operations.

Foreign civil aircraft which are not engaged in commercial air operations into, out of, or within the United States may be operated in the United States and may discharge, take on, or carry between points in the United States any non-revenue traffic.

§ 375.31 Demonstration flights of foreign aircraft.

Flights of foreign civil aircraft within the United States may be made for the purpose of demonstration of the aircraft or any component thereof, provided no persons, cargo or mail are carried for remuneration or hire.

§ 375.32 Flights incidential to agricultural and industrial operations outside the United States.

Foreign civil aircraft which are engaged in agricultural or industrial operations to be performed wholly without the United States may be navigated into, out of, and within the United States in connection therewith provided they are not at the time engaged in the carriage of passengers, cargo or mail for remuneration or hire.

§ 375.33 Transit flights, irregular operations.

Foreign civil aircraft carrying persons, property, or mail for remuneration or hire but not engaged in scheduled international air services are authorized to navigate non-stop across the territory of the United States and to make stops for non-traffic purposes. Such aircraft shall not make stops for the purpose of taking on or discharging passengers, cargo or mail, or for other than strictly operational purposes.

§ 375.34 Indoctrination training.

Foreign civil aircraft may be operated in the United States for the purpose of giving indoctrination training in the operation of the aircraft concerned to a buyer or his employees or designees: *Provided*, That foreign civil aircraft shall not be used within the United States for the purpose of flight instruction for remuneration or hire.

5. By amending Subpart E to read as follows:

Subpart E—Operations Requiring Specific Pre-Flight Authorization by the Board or the Administrator

§ 375.40 Permits for commercial air operations.

(a) *Applications.* Commercial air operations in the United States may not be undertaken by foreign civil aircraft unless the Board has issued a permit therefor upon application pursuant to this subpart and such permit is carried on board the aircraft. Permits are not transferable. Applications for permits may be filed directly with the Board and need not be filed through diplomatic channels. They shall be made on CAB Form 272,[1] addressed to the attention of the Director, Bureau of Air Operations, and shall contain a proper identification of the applicant, the operator of the aircraft concerned and of the owner thereof; a description of the aircraft by make, model, and registration marks; and a full description of the operations for which authority is desired, indicating type and dates of operations and number of flights, and routing. In case of cargo flights, the names of all contractors and the beneficial owner of the cargo, a description of the cargo and of the proposed operations, including services to be performed by any exporter, importer or transportation agent, shall be provided. In case of passenger flights, a full identification and description of the group chartering the aircraft, and identification of the travel agent, if any, shall be provided. A copy of any newspaper or other advertising of the flights shall be enclosed. The application shall also be accompanied by such documents as may be necessary to establish that reciprocity for similar operations by United States registered aircraft exists in the country of registration of the aircraft. Applications shall be submitted at least 15 days in advance of the date of the commencement of the proposed operation. Such additional information as may be specifically requested by the Board shall also be furnished.

(b) *Withholding from publication.* Except to the extent that the Board directs that such information be withheld from public disclosure for reasons of national defense or as hereinafter specified in this paragraph, every application, and any objection thereto filed pursuant to this section shall be open to public inspection, and notice thereof shall be published in the Board's Weekly List of Applications Filed. Any person may make written objection to the Board to the public disclosure of such information or any part thereof, stating the grounds for such objection. If the Board finds that a disclosure of such information or part thereof would adversely affect the interests of such person and is not required in the interest

[1] Filed as part of the original document; available upon request from the Publications Section of the Civil Aeronautics Board, Washington 25, D.C.

of the public, it will order that such information or part be so withheld.

(c) *Failure to comply.* Failure to comply with the requirements of this part shall be cause for the suspension, revocation or refusal to renew a permit or the denial of the issuance of a new permit issuable under this part.

§ 375.41 Agricultural and industrial operations within the United States.

Foreign civil aircraft shall not be used for crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting or similar agricultural or industrial operations within the United States unless a permit therefor has been issued by the Board and the operation is conducted in accordance with all applicable State and local laws and regulations as well as the applicable provisions of this part.

§ 375.42 Commercial transport operations.

(a) *Permit required.* Except for aircraft being operated under a permit issued by the Board pursuant to section 402 of the Act, foreign civil aircraft engaged in flights for remuneration or hire for the purpose of discharging or taking on passengers or cargo at one or more points in the United States may be navigated in the United States only if there is carried on board the aircraft a permit issued by the Board in accordance with this section authorizing the operation involved. Carriage of cargo for the operator's own account is governed by the provisions of this section if the cargo is to be resold or otherwise used in the furtherance of a business other than the business of providing carriage by aircraft.

(b) *Nature of privilege conferred by permit.* (1) The provisions of this section and of any permit issued hereunder, together with section 1108(b) of the Act, are designed, among other purposes, to carry out the international undertakings of the United States in the Chicago Convention, in particular Article 5 thereof. That article accords to foreign aircraft the privilege of "Taking on or discharging passengers, cargo or mail" subject to the right of the state where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable. The Congress by the 1953 amendment to section 6 of the Air Commerce Act of 1926, now designated as section 1108(b) of the Act, has authorized the Board to permit such operations only where conditions of reciprocity and the interest of the public in the United States are met. It is incompatible with the intent of this legislation and the nature of the function involved to regard the operator of any foreign registered aircraft as entitled as a matter of right to the issuance, renewal or freedom from modification or change in a permit issuable pursuant to this authority. Accordingly, any permit issued under this part may be withheld, revoked, amended, modified, restricted, suspended, withdrawn, or cancelled by the Board in the interest of the public of the United States, without notice or hearing and without the right in the holder to challenge the Board's discretion.

(2) Aircraft cannot be authorized to engage in air transportation under this section. The question of whether particular flights for which a permit is sought will be in common carriage, and therefore in air transportation, is one of fact to be determined in the light of all the facts and circumstances surrounding the applicant's entire operations. The burden rests upon the applicant in each instance to demonstrate by an appropriate factual showing that the contemplated operation will not constitute common carriage from, to or within the United States. In general, a carrier who holds himself out to the public, or to particular classes or segments thereof, as willing to furnish transportation for hire is a common carrier. Ordinarily, therefore, the type of application which may be approved hereunder is not one which may be advertised to the public.

(3) In general, there are two types of services most likely to qualify for authorization hereunder:

(i) *Occasional plane-load charters.* Occasional plane-load charters may be authorized where, because of their limited nature and extent, special equipment or facilities utilized, or other circumstances pertaining to them, it appears that they are not within the scope of the applicant's normal holding out of transportation services to the general public. Such charters are normally limited to those in which the entire capacity of the aircraft is engaged by a single charterer, and since they are occasional in nature, should not exceed for any one applicant more than a few flights during a year's period. Applicants are required to make full disclosure concerning the identity and business of the charterer. Generally speaking, the kinds of so-called charters that will not be authorized under this regulation are those that involve solicitation of the general public such as is usually involved in the transportation of individually ticketed passengers or individually waybilled cargo, or in which the charterer is a travel agent, a broker, an air freight forwarder or any other organization that holds itself out to the general public to provide transportation services.

(ii) *Continuing cargo operations for one or more contractors.* (*a*) Continuing cargo operations for one or more contractors may be permitted where it has been established by the applicant that the proposed operation is not within the scope of the applicant's normal holding out of transportation services to the general public. By way of illustration it may be stated that under this test authorizations of this type to serve up to 10 different contractors during any 12-month period may be granted unless other facts and circumstances impose a more stringent limitation.

(*b*) The provisions of the contract between the applicant and the contractor are important. The type of contract most likely to qualify for authorization hereunder is one which (*1*) places an obligation on the shipper to utilize the carrier's services, as well as upon the carrier to perform the contemplated services, and (2) provides that the contractor itself will pay for the transportation performed, or at least guarantee its payment to the carrier.

(*c*) Also, the nature of the business activities of the particular contractor will be carefully considered by the Board. As in the case of plane-load charters, the proposed operations will not be authorized if the contractors are airfreight forwarders, cargo agents, brokers or others who hold themselves out to the general public to provide transportation services. Contracts involving industrial organizations which consume the shipments in the course of their industrial operations will normally be an acceptable form of contracting organization. On the other hand, a contracting organization which does not so consume the shipped cargo, but delivers it to the ultimate consumer, directly or indirectly, may well be unacceptable as a contracting organization unless it can be shown that the ultimate consumers do not constitute the general public. In the latter type of case, the information furnished concerning the nature of the business activities of the contractor and the manner in which the ultimate consumers are solicited, served, and billed will be of particular significance.

(*d*) In the case of transportation of goods for the carrier's own account for subsequent sale, such operations will not be permitted where the carrier solicits orders and delivers goods, maintaining title to the goods principally for the purpose of engaging in the transportation business or where the arrangement otherwise is in the nature of a subterfuge.

(c) *Application for permit.* Applications for permits under this section shall comply with the requirements of § 375.40. There shall be enclosed with the application a copy of each contract between the operator and each person for whose account the flight or flights is or are to be performed. If any flight is to be performed in whole or in part for the operator's own account under the cirumstances governed by this section, there shall also be enclosed copies of all contracts relating to the acquisition and disposition of the cargo. Copies of contracts covering proposed operations which have previously been filed with the Board in connection with a prior application need not be filed again.

(d) *Issuance of permit.* If upon examination of the application, all supporting documents and other information available to it, the Board is of the opinion that the application is in order and that the proposed operation either by itself or in conjunction with other operations of the operator to or from the United States is in the interest of the public and does not disclose any apparent violation of section 402 of the Act, or any other applicable provision of law, it will issue a permit for a period not in excess of 90 days, to the applicant authorizing the conduct of the flights set forth in the application.

§ 375.43 Keeping of records on commercial transport operations.

(a) The holder of a permit issued under § 375.42 shall issue a manifest or shipping document with respect to each

shipment which should contain, but need not be limited to, the following information:

(1) Name of the contractor for whom the shipment is transported.

(2) Name and address of payer of transportation charges.

(3) Name and address of vendor of goods.

(4) Name and address of consignor of goods.

(5) Name and address of consignor's agent, if any.

(6) Names and addresses of intermediate and ultimate consignees.

(7) Number of packages in shipment and total weight of same.

(8) Description of commodities.

(9) Point of air origin and air destination of shipment on line of carrier.

(10) Date of air waybill preparation.

(11) Name of employee or agent preparing air waybill.

(12) Date shipment is transported by carrier.

(13) Breakdown of charges including weight-rate charges, pick-up and delivery, excess valuation, advance charges and any accessorial charges.

(b) Each holder of a permit issued under § 375.42 shall keep, for a period of two years, true copies of all manifests, air waybills, invoices and other traffic documents covering flights originating or terminating in the United States, and the holder of a permit authorizing 10 or more flights originating in the United States in a 90-day period shall maintain a place in the United States where such documents may be inspected at any proper time by authorized representatives of the Board or the Federal Aviation Agency. Records of flights terminating in the United States and flights conducted pursuant to a permit authorizing less than 10 flights in any 90-day period need not be maintained in the United States but shall be made available to the Board upon demand.

(c) Records documenting each particular flight, demonstrating compliance with the requirements imposed by this part, shall be preserved for a period of two years and shall be made available to the Board or the Federal Aviation Agency upon demand.

§ 375.44 Reports on commercial transport operations.

(a) *Reports on cargo flights*—(1) Holders of permits issued under § 375.42 shall submit to the Board reports of cargo flights actually conducted pursuant thereto on CAB Form 321 [1] or, if no flights were conducted under the permit, a letter so stating. The initial report shall be submitted not later than the 30th day following commencement of operations and shall report on all flights conducted during such period. Like reports shall be filed for each succeeding 30-day period. Failure to submit a report on time shall constitute grounds for revocation, refusal to renew the permit, or denial of the issuance of a new permit.

(2) Separate reports shall be submitted for flights inbound to and outbound from the United States. The report shall state the dates of flights; origination, destination and intermediate points; number and weight of total shipments transported for each contractor, of shipments for contractor's own use or consumption, of shipments for contractor's inventory for later resale, and of shipments for ultimate consignees; the number of such consignees; and any deviation from the statements made in the application: *Provided,* That such deviations shall not be deemed authorized merely because they are so reported. Copies of any newspaper or other advertising of the flights since the filing of the application shall be attached.

(b) *Reports on passenger flights.* Holders of permits issued under § 375.42 shall submit to the Board letter reports of passenger flights conducted pursuant thereto or a letter stating that no operations were conducted. The letter shall identify the flights and note any deviation from the statements made in the application: *Provided,* That such deviations shall not be deemed authorized merely because they are so reported. Copies of any newspaper or other advertising of the flights since the filing of the application shall be attached.

§ 375.45 Transit flights; scheduled international air service operations.

An operator of foreign civil aircraft desiring to conduct a scheduled international air service in transit across the United States pursuant to the International Air Services Transit Agreement shall, before commencing operations, obtain the approval of the Administrator for the route or routes proposed to be followed and thereafter shall conduct such operations in accordance with the provisions of that approval. Stopovers for the convenience or pleasure of the passengers are not authorized under this section, and stops other than for strictly operational reasons shall not be made. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement shall make special application to the Board under § 375.70. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 of the Act is not authorized by this section.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Sec. 204(a), 72 Stat. 743, 49 U.S.C. 1324. Interpret or apply sec. 1108(b), 72 Stat. 798, 49 U.S.C. 1508)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 60-1839; Filed, Feb. 29, 1960; 8:48 a.m.]

[1] Filed as part of the original document; available upon request from the Publications Section of the Civil Aeronautics Board, Washington 25, D.C.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Orange Juice and Orange Juice Products; Definitions and Standards of Identity

In the matter of establishing definitions and standards of identity for orange juice, pasteurized orange juice, canned orange juice, sweetened pasteurized orange juice, canned sweetened orange juice, concentrated orange juice, sweetened concentrated orange juice, reconstituted orange juice, sweetened reconstituted orange juice, and industrial orange juice with added chemical preservatives:

Notices of proposed rule making were published in the FEDERAL REGISTER of November 6, 1956 (21 F.R. 8511) and June 4, 1957 (22 F.R. 3893) setting forth proposals of Kraft Food Company, 500 Pestigo Court, Chicago, Illinois, the National Association of Frozen Food Packers, 1415 K Street NW., Washington, D.C., and the Commissioner of Food and Drugs for the establishment of definitions and standards of identity for orange juice and certain types of orange juice products.

Upon consideration of the views and comments submitted and other relevant information, it is concluded that it will not promote honesty and fair dealing in the interest of consumers to establish definitions and standards of identity for industrial orange juice with added sodium benzoate, sulfur dioxide, and other ingredients. It is also concluded that it will promote honesty and fair dealing in the interest of consumers to establish the definitions and standards of identity hereinafter set forth.

Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500): *It is ordered:*

1. That the petition for the establishment of a definition and standard of identity for industrial orange juice with added chemical preservatives and other ingredients be denied; and

2. That the following definitions and standards of identity be established:

§ 27.106 Orange juice; identity.

(a) Orange juice is the unfermented juice obtained from mature oranges of one or both of the species Citrus sinensis or Citrus reticulata or hybrids thereof,

but not from tangerines. Seeds and part of the pulp are removed. Excess orange oil may be removed by methods other than by heating. The juice may be chilled, but it is not frozen.

(b) The name of the food is "orange juice." Such name may be preceded by the varietal name of the oranges used and, if the oranges grew in a single State, the name of such State may be included in the name, as for example, "California Valencia orange juice."

§ 27.107 Pasteurized orange juice; identity; label statement of optional ingredients.

(a) Pasteurized orange juice is the class of food prepared from unfermented juice obtained from mature oranges as specified in § 27.106. Seeds and part of the pulp are removed and excess orange oil may be removed. The orange juice or portions thereof are so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms, and may or may not be chilled or frozen. In preparing pasteurized orange juice, the solids may be adjusted by adding concentrated orange juice that complies with the requirements of § 27.111, but the quantity of such concentrated orange juice added does not contribute more than one-fourth of the total orange juice solids in the finished packaged pasteurized orange juice. The finished pasteurized orange juice tests not less than 10.5° on the Brix hydrometer, and the ratio of Brix reading to the percent by weight of acid, calculated as anhydrous citric acid, is not less than 10 to 1.

(b) (1) If the pasteurized juice is filled into containers and preserved by freezing, the name of the food is "frozen pasteurized orange juice."

(2) If the pasteurized orange juice is filled into containers and refrigerated, the name of the food is "chilled pasteurized orange juice." If it is so packaged that it does not purport to be canned orange juice or frozen pasteurized orange juice, the word "chilled" may be omitted from the name.

(c) If concentrated orange juice is used in adjusting the orange juice solids of the pasteurized orange juice, the label shall bear the statement "prepared in part from concentrated orange juice," but if the concentrated orange juice contains water extract of orange pulp, as provided in § 27.111, the statement shall be "prepared in part from concentrated orange juice containing water extract of orange pulp."

(d) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement herein specified for naming the optional ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 27.108 Canned orange juice; identity; label statement of optional ingredients.

(a) Canned orange juice complies with the requirements for composition and for labeling optional ingredients as set out for pasteurized orange juice in § 27.107. It is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) The name of the food is "canned orange juice." If it is so packaged in metal cans or glass jars as not to purport to be chilled pasteurized orange juice or frozen pasteurized orange juice, the word "canned" may be omitted from the name.

§ 27.109 Sweetened pasteurized orange juice; identity; label statement of optional ingredients.

(a) Sweetened pasteurized orange juice is the class of food that conforms to the definition and standard of identity for pasteurized orange juice as set out in § 27.107, except that it is sweetened with one or more of the optional sweetening ingredients specified in paragraph (b) of this section, the finished sweetened pasteurized orange juice tests not less than 12.5° on the Brix hydrometer, and the ratio of Brix reading to the percent by weight of acid, calculated as anhydrous citric acid, is not less than 10 to 1.

(b) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, invert sugar, dextrose, dried corn sirup, dried glucose sirup.

(c) The name for use on the label of sweetened pasteurized orange juice is the name set out in § 27.107(b) for corresponding forms of pasteurized orange juice, but in each instance the name is immediately preceded by the word "sweetened."

(d) (1) If concentrated orange juice is used in adjusting the orange juice solids of the sweetened pasteurized orange juice, the label shall bear the statement "prepared in part from concentrated orange juice," but if the concentrated orange juice contains water extract of orange pulp, as provided in § 27.111, the statement shall be "prepared in part from concentrated orange juice containing water extract of orange pulp."

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 27.110 Canned sweetened orange juice; identity; label statement of optional ingredients.

(a) Canned sweetened orange juice complies with the requirements for composition and for labeling optional ingredients as set out for sweetened pasteurized orange juice in § 27.109. It is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) The name of the food is "canned sweetened orange juice." If it is so packaged in metal cans or glass jars as not to purport to be chilled sweetened pasteurized orange juice or frozen sweetened pasteurized orange juice, the word "canned" may be omitted from the name.

§ 27.111 Concentrated orange juice, orange juice concentrate; identity; label statement of optional ingredients.

(a) Concentrated orange juice is the food prepared by removing water from the juice of mature oranges as specified in § 27.106, and the concentrate so obtained may or may not be frozen. In its preparation excess peel oil may be removed. Prior to concentration, the seeds and excess pulp are removed from the juice; a properly prepared water extract of the excess pulp so removed may be added; and, after concentration but before freezing, orange pulp, orange oil, orange juice, and other orange juice concentrate may be added to adjust the final composition. Any or all of the ingredients of the finished concentrate may have been so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms. The finished food contains the soluble solids of orange juice in sufficient concentration to give a refractometer reading, when corrected for the acidity calculated as anhydrous citric acid, not lower than that of a sucrose solution of 41.8 percent by weight.

(b) (1) The name of the food is "concentrated orange juice" or "orange juice concentrate." Where the food is frozen, such name is immediately preceded by the word "frozen."

(2) If a water extract of the excess pulp removed during preparation of the juice for concentration is returned to such juice, the label shall bear the statement "prepared in part from water extract of orange pulp."

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this paragraph for naming the optional ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 27.112 Sweetened concentrated orange juice; sweetened orange juice concentrate; identity; label statement of optional ingredients.

(a) Sweetened concentrated orange juice complies with the requirements of § 27.111 for concentrated orange juice, except that it contains, in addition to the prescribed orange juice solids, an added quantity of one or more of the optional sweetening ingredients sugar, sugar sirup, invert sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup sufficient to cause the finished food to give a refractometer reading, when corrected for the acidity calculated as anhydrous citric acid, not lower than that of a sucrose solution of 44 percent by weight, and to give a ratio of percent-soluble solids to percent by weight of acid, calculated as anhydrous citric acid, of not less than 10 to 1.

(b) (1) The name of the food is "sweetened concentrated orange juice" or "sweetened orange juice concentrate." Where the food is frozen, such name is

immediately preceded by the word "frozen."

(2) If the sweetened concentrated orange juice contains water extract of orange pulp, as provided in § 27.111, the label shall bear the statement "prepared in part from water extract of orange pulp."

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this paragraph, naming the optional ingredient used, shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 27.113 Reconstituted orange juice; orange juice from concentrate; identity; label statement of optional ingredients.

(a) Reconstituted orange juice, orange juice from concentrate is the food prepared by mixing water with concentrated orange juice as defined in § 27.111. To such mixture, orange juice as defined in § 27.106, pasteurized orange juice as defined in § 27.107, or both, may be added. The finished reconstituted orange juice tests not less than 11.8° on the Briz hydrometer.

(b) (1) The name of the food is "reconstituted orange juice" or "orange juice from concentrate."

(2) If the reconstituted orange juice contains water extract of orange pulp, as provided in § 27.111, the label shall bear the statement "prepared in part from water extract of orange pulp."

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement herein specified, naming the optional ingredient used, shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 27.114 Sweetened reconstituted orange juice, sweetened orange juice from concentrate; identity; label statement of optional ingredients.

(a) Sweetened reconstituted orange juice complies with the requirements of § 27.113 for reconstituted orange juice, except that it contains, in addition to the prescribed orange juice solids, an added quantity of one or more of the optional sweetening ingredients specified in paragraph (b) of this section sufficient to cause the finished food to test not less than 12.5° on the Brix hydrometer, and to have a ratio of Brix reading to percent by weight of acid, calculated as anhydrous citric acid, of not less than 10 to 1. Sweetening ingredients may be added directly or may be furnished in whole or in part by use of sweetened concentrated orange juice.

(b) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, sugar sirup, invert sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(c) (1) The name of the food is "sweetened reconstituted orange juice" or "sweetened orange juice from concentrate."

(2) If any concentrated orange juice used or any sweetened concentrated orange juice used contains water extract of orange pulp, as provided in § 27.111, the label shall bear the statement "prepared in part from water extract of orange pulp."

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this paragraph for naming the optional ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective ninety days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: February 23, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1834; Filed, Feb. 29, 1960; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

Subpart E—Substances for Which Prior Sanctions Have Been Granted

PAPER AND PAPERBOARD; EXTENSIONS OF EFFECTIVE DATE; PRIOR SANCTIONS

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 409, 701, 72 Stat. 1785, 1788, 52 Stat. 1055, as amended 72 Stat. 948; 21 U.S.C., note under sec. 342, 348, 371), and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500): *It is ordered,* That the food additive regulations (24 F.R. 2434; 21 CFR 121.87; 21 CFR 121.2001 (25 F.R. 866) be amended as set forth below:

1. In Subpart A, § 121.87 is amended by adding thereto the following new paragraph (b):

§ 121.87 Extension of effective date of statute for certain specified food additives as indirect additives to food.

On the basis of data supplied in accordance with § 121.85 and findings that no undue risk to the public health is involved and that conditions exist that make necessary the prescribing of an additional period of time for obtaining tolerances or denials of tolerances or for granting exemptions from tolerances, the following additives may be used in connection with the production, packaging, and storage of food products, under certain specified conditions, for a period of 1 year from March 6, 1960, or until regulations shall have been issued in accordance with section 409 of the act, whichever occurs first. The extensions are granted under the condition that a minimum quantity of the additive will be incorporated in the food, consistent with good manufacturing practice.

* * * * *

(b) *Substances migrating from paper and paperboard products used in food packaging*—(1) *Defoaming agents.*

Aliphatic hydrocarbon fractions of petroleum.
Castor oil.
Cetyl alcohol.
Coconut alkylolamide.
Coconut oil, sulfonated.
Cottonseed fatty acid.
Cyclohexanol.
Diethamolamine stearate.
Ethylenediamine tetraacetic acid tetrasodium salt.
Formaldehyde.
Glyceryl monohydroxystearate.
Hexadecanol.
Hexylene glycol.
Hydrogenated fish oil.
Isobutanol.
Isopropanol.
Kerosene, completely aliphatic.
Kerosene oil.
Kerosene oil, deodorized.
Lauryl alcohol.
Lignin sulfonate sodium salt.
Marine oil fatty acid soaps (hydrogenated).
Methyl oleate.
Methyl oleate-palmitate mixture.
Methyl tallowate.
Mineral oil.
Mustardseed oil, sulfated.
Myristyl alcohol.
Naphtha.
Oleic acid, animal source.
Oleic acid, sulfated.
Oleic acid, vegetable source.
Oil paraffin.
Oil paraffin, pale paraffin oil.
Parachlorometacresol.
Paraffin wax.
Peanut oil, sulfated.
Pentaerythritol monostearate.
Polyalkylene glycol ether.
Polyethylene (slightly oxidized).
Polyethylene glycol, ester of rosin (15 M).
Polyethylene glycol, ester of rosin octylphenol.
Polyethylene glycol 200, monotallate.
Polyethylene glycol 200, monooleate.
Polyethylene glycol 200, monostearate.
Polyethylene glycol 400, ditallate.
Polyethylene glycol 400, dioleate.
Polyethylene glycol 400, distearate.
Polyethylene glycol 400, monococoate.

Polyethylene glycol 400, monolaurate.
Polyethylene glycol 400, monooleate.
Polyethylene glycol 400, monostearate.
Polyethylene glycol 400, monotallate.
Polyethylene glycol 400, tallow diester and glycerides.
Polyethylene glycol 450, monostearate.
Polyethylene glycol 600.
Polyethylene glycol 600 monooleate.
Polyethylene glycol 600, monoricinoleate.
Polyglycol ether of tridecyl alcohol.
Polyoxyethylene sorbitan monostearate.
Rice bran oil.
Rice bran oil, sulfated.
Ricinoleate (butyl).
Ricinoleate (methyl).
Sodium stearate, technical grade.
Sorbitan monostearate.
Sorbitan tristearate.
Sperm oil, sulfated (75%).
Stearic acid.
Stearic acid, single pressed.
Stearic acid, double pressed.
Stearic acid, rubber grade.
Stearic palmitic acids, 63:29.
Stearyl alcohol, technical grade, approximately 65%–80% stearyl and 20%–35% cetyl.
Tall oil fatty acid, methyl ester.
Tall oil, refined.
Tallow, alcohol, hydrogenated.
Tallow, blown (oxidized).
Tallow.
Tallow fatty acids.
Tallow fatty acids, hydrogenated.
Tallow, hydrogenated.
Tallow, monoglyceride.
Tallow, propylene glycol ester.
Tallow, sodium soap.
Tallow, sulfated (75%).
Tallow, sulfated (80%).
Tallow, sulfonated (50%).
Tallow, unbleached.
Triethanolamine (98%).
Triisopropanolamine.
Zinc stearate.

(2) *Rosin and rosin derivatives.* As incidental additives to food from the use as components of adhesives, wax and other coatings, plasticizers, inks, lacquers, sizings, paper finishers, defoaming and dispersing agents, intended for use in the manufacture of paper and paperboard for the packaging of food.

Wood rosin, gum rosin, and tall oil rosin and the dimers thereof, and these substances as modified by the following reactants:
Bisphenol-formaldehyde.
Ethylene glycol.
Formaldehyde.
Fumaric acid.
Glycerin.
Hydrogen.
Maleic anhydride.
Methanol.
Pentaerythritol (double-crystallized).
Phthalic anhydride.
Sulfuric acid.
Triethylene glycol.

(3) *Miscellaneous chemicals and substances used in the manufacture of paper and paperboard for food packaging.* As incidental additives to food from the use as components of adhesives, wax, and other coatings, plasticizers, inks, lacquers, sizings, paper finishes, slime-control agents, dispersing agents, and/or other uses:

Acrylic and methacrylic esters (aqueous emulsions of polymers).
Animal glue.
Anionic polyacrylamide.
bis(1,4-Bromoacetoxy)-2-butene.
Carbon black prepared by the "impingement" or "channel" process.
Dibutyl phthalate.
Dicyclohexylphthalate.
Dicyandiamide.
Dimethyl polysiloxane polymer.
Dioctyl sodium sulfosuccinate.
Hydroxyethylcellulose.
β-Hydroxyethyl pyridinium salt of 2-mercaptobenzothiazole.
Hydroxyethyl starch.
Mixture of the ketene dimers of palmitic and stearic acids.
Monosulfonated naphthalene.
Oxidized starch.
Pentaerythritol ester of maleic anhydride.
Polyamide-epichlorohydrin resin.
Polyoxyethylated castor oil.
Polyoxyethylated oleyl alcohol.
Polyvinyl alcohol.
Sodium dodecylbenzene sulfonate.
Sodium lauryl sulfate.
Sodium ligninsulfonate (sodium lignosulfonate).
Sodium nitrate.
Sodium salt of naphthalene sulfonic acid condensed with formaldehyde.
Sodium salts of dimethyl dithiocarbamic acid and 2-mercaptobenzothiazole.
Triethylene glycol polyester of phthalic anhydride (modified).
Vinyl acetate dibutyl maleate copolymer.
Zinc dimethyldithiocarbamate in combination with zinc salt of 2-mercaptobenzothiazole.

2. In Subpart E. § 121.2001 is amended by adding the following new paragraph (b):

§ 121.2001 Substances for which prior sanctions have been granted.

* * * * *

(b) *Substances used in the manufacture of paper and paperboard products used in food packaging.*

Aliphatic polyoxyethylene ethers.*
1-Alkyl (C_6-C_{18})-amino-3-aminopropane monoacetate.*
Borax or boric acid for use in adhesives, sizes, and coatings.*
Butadiene-styrene copolymer.
Chromium complex of perfluoro-octane sulfonyl glycine for use on paper and paperboard which is waxed.*
Disodium cyanodithioimidocarbamate with ethylene diamine and potassium *N*-methyl dithiocarbamate and/or sodium 2-mercaptobenzothiazole (slimicides).*
Ethyl acrylate and methyl methacrylate copolymers of itaconic acid or methacrylic acid for use only on paper and paperboard which is waxed.*
Hexamethylene tetramine as a setting agent for protein, including casein.*
1-(2-Hydroxyethyl)-1-(4-chlorobutyl)-2-alkyl (C_6-C_{17}) imidazolinium chloride.*
Itaconic acid (polymerized).
Melamine formaldehyde polymer.
Methyl acrylate (polymerized).
Methyl ethers or mono-, di-, and tripropylene glycol.*
Myristo chromic chloride complex.
Nitrocellulose.
Polyethylene glycol 400.
Polyvinyl acetate.
Potassium pentachlorophenate as a slime control agent.*
Potassium trichlorophenate as a slime control agent.*
Pyrethrins in combination with piperonyl butoxide in outside plies of multiwall bags.*
Resins from high and low viscosity polyvinyl alcohol for fatty foods only.
Rubber hydrochloride.
Sodium pentachlorophenate as a slime control agent.*
Sodium trichlorophenate as a slime control agent.*
Stearato-chromic chloride complex.
Titanium dioxide.*
Urea formaldehyde polymer.
Vinylidine chlorides (polymerized).

*Under the conditions of normal use, these substances would not reasonably be expected to migrate to food, based on available scientific information and data.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the food additives amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by the statute as a relief of restrictions on the food-processing industry and since the listing of the substances on which prior sanctions have been granted implements the regulation (§ 121.3) previously promulgated, relieves the Food and Drug Administration from the necessity of advising of individual sanctions upon request of the affected industry, and relieves the industry from the necessity of requesting advice concerning the use of substances for which sanctions have already been granted.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER, since interested persons will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies secs. 201(s), 409, 72 Stat. 1784 et seq.; 21 U.S.C. 321(s), 348)

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1762; Filed, Feb. 29, 1960; 8:45 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6454]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Sale of Sporting Goods, Photographic Equipment, Firearms, Business Machines, Pens, Mechanical Pencils and Lighters, and Matches

On November 19, 1959, notice of proposed rule making with respect to the Manufacturers and Retailers Excise Tax Regulations (26 CFR (1954) Part 48) under subchapters D and E of chapter 32 of the Internal Revenue Code of 1954, as in effect on January 1, 1959, relating to the manufacturers excise taxes on the sale of sporting goods, photographic equipment, firearms, business machines, pens, mechanical pencils and lighters, and matches, was published in the FEDERAL REGISTER (24 F.R. 9335). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the change set forth below:

The next to last sentence of paragraph (a) of § 48.4171–1 is revised by striking

the word "resold" and inserting in lieu thereof the word "sold".

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: February 24, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

The regulations adopted under subchapters D and E, respectively, of chapter 32 of the Internal Revenue Code of 1954, as in effect January 1, 1959, read as follows:

Subpart K—Sporting Goods, Photographic Equipment, and Firearms

SPORTING GOODS

PHOTOGRAPHIC EQUIPMENT

FIREARMS

Subpart L—Business Machines, Pens, Mechanical Pencils and Lighters, and Matches

BUSINESS MACHINES

PENS AND MECHANICAL PENCILS AND LIGHTERS

MATCHES

AUTHORITY: §§ 48.4161 to 48.4211–3, issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

Subpart K—Sporting Goods, Photographic Equipment, and Firearms

SPORTING GOODS

§ 48.4161 Statutory provisions; imposition of tax.

SEC. 4161. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) a tax equivalent to 10 percent of the price for which so sold:

Badminton nets, rackets and racket frames (measuring 22 inches overall or more in length), racket string, shuttlecocks, and standards.

Billiard and pool tables (measuring 45 inches overall or more in length) and balls and cues for such tables.

Bowling balls and pins.

Clay pigeons and traps for throwing clay pigeons.

Cricket balls and bats.

Croquet balls and mallets.

Curling stones.

Deck tennis rings, nets and posts.

Fishing rods, creels, reels and artificial lures, baits and flies.

Golf bags (measuring 26 inches or more in length), balls and clubs (measuring 30 inches or more in length).

Lacrosse balls and sticks.

Polo balls and mallets.

Skis, ski poles, snowshoes, and snow toboggans and sleds (measuring more than 60 inches overall in length).

Squash balls, rackets and racket frames (measuring 22 inches overall or more in length), and racket string.

Table tennis tables, balls, nets and paddles.

Tennis balls, nets, rackets and racket frames (measuring 22 inches overall or more in length) and racket string.

[Sec. 4161 as originally enacted and in effect Jan. 1, 1959]

§ 48.4161–1 Imposition and rate of tax.

(a) *Imposition of tax*—(1) *In general.* Section 4161 imposes a tax on the sale of the following articles (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer thereof:

Badminton nets, rackets and racket frames (measuring 22 inches overall or more in length), racket string, shuttlecocks, and standards.

Billiard and pool tables (measuring 45 inches overall or more in length) and balls and cues for such tables.

Bowling balls and pins.

Clay pigeons and traps for throwing clay pigeons.

Cricket balls and bats.

Croquet balls and mallets.

Curling stones.

Deck tennis rings, nets and posts.

Fishing rods, creels, reels and artificial lures, baits and flies.

Golf bags (measuring 26 inches or more in length), balls and clubs (measuring 30 inches or more in length).

Lacrosse balls and sticks.

Polo balls and mallets.

Skis, ski poles, snowshoes, and snow toboggans and sleds (measuring more than 60 inches overall in length).

Squash balls, rackets and racket frames (measuring 22 inches overall or more in length), and racket string.

Table tennis tables, balls, nets and paddles.

Tennis balls, nets, rackets and racket frames) measuring 22 inches overall or more in length) and racket string.

(2) *Determination whether article taxed as sporting goods.* The tax attaches to the sale of any article specified in section 4161 and subparagraph (1) of this paragraph which is designed or constructed for use in playing or participating in the conventional game or sport to which the particular article is associated. However, the tax does not attach to the sale of articles in the nature of toys or novelties which simulate sporting goods of the type referred to and which are not designed or constructed for use as provided in the preceding sentence.

(b) *Rate of tax.* Tax is imposed on the sale of the articles enumerated in section 4161 and paragraph (a)(1) of this section at the rate of 10 percent of the price for which such articles are sold. For definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4161 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4161–2 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4161 and paragraph (a)(1) of § 48.4161–1 sold on or in connection therewith or with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4161 and paragraph (a)(1) of § 48.4161–1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

§ 48.4161–3 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4161, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

PHOTOGRAPHIC EQUIPMENT

§ 48.4171 Statutory provisions; imposition of tax.

SEC. 4171. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—

Cameras.

Camera lenses.

Unexposed photographic film in rolls (including motion picture film).

Articles taxable at 5 percent—
Electric motion or still picture projectors of the household type.

[Sec. 4171 as originally enacted and in effect Jan. 1, 1959]

§ 48.4171–1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4171 imposes a tax on the sale of the following articles (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer thereof:

(1) Cameras;

(2) Camera lenses;

(3) Unexposed photographic film in rolls (including motion picture film); and

(4) Electric motion or still picture projectors of the household type.

See, however, section 4173 and § 48.4173–1 for exemption of the sale of certain cameras, lenses, and unexposed photographic film from the tax imposed by section 4171, and section 6416(b)(2)(Q) providing a credit or refund of tax paid on the sale of unexposed motion picture film which is used, or sold for use, in the making of newsreel motion picture film. For meaning of the terms "camera" and "lens", see § 48.4171–2.

(b) *Rates of tax.* Tax is imposed on the sale of the articles specified in section 4171 and paragraph (a) of this section at the rate indicated below:

	Percent
(1) Cameras	10
(2) Camera lenses	10
(3) Unexposed photographic film	10
(4) Electric motion or still picture projectors	5

The tax is computed by applying to the price for which the article is sold the applicable rate. For definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4171 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4171–2 Meaning of terms.

For purposes of the tax imposed by section 4171:

(a) *Camera.* The term "camera" includes the entire assembly which is used for, or is capable of use in, the taking of still or motion pictures.

(b) *Lens.* The term "lens" includes the glass and the frame or cell in which such glass is mounted.

§ 48.4171–3 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4171 and paragraph (a) of § 48.4171–1 sold on or in connection therewith or with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4171 and paragraph (a) of § 48.4171–1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

(c) *Identification of parts or accessories.* For purposes of this section and § 48.4173–1, in the case of cameras and lenses, the term "parts or accessories" only includes articles that are incorporated in, or are intended for incorporation in, a taxable camera or a taxable lens so as to become an integral part thereof, and range finders which, although detachable from a taxable camera, cannot operate independently thereof.

§ 48.4172 Statutory provisions; definition of certain vendees as manufacturers.

SEC. 4172. *Definition of certain vendees as manufacturers.* Any person who acquires unexposed photographic film not subject to tax under this part and sells such unexposed film in form and dimensions subject to tax hereunder (or in connection with a sale cuts such film to form and dimensions subject to tax hereunder) shall for the purposes of section 4171 be considered the manufacturer of the film so sold by him.

[Sec. 4172 as originally enacted and in effect Jan. 1, 1959]

§ 48.4172–1 Status of persons who purchase nontaxable photographic film and convert it to taxable photographic film.

Section 4172 provides that any person who acquires unexposed photographic film, the sale of which was not subject to the tax imposed by section 4171 or was exempt from such tax under section 4173, and who—

(a) Sells such film in form and dimensions subject to the tax imposed by section 4171, or

(b) In connection with a sale, cuts such film to form and dimensions subject to the tax imposed by section 4171,

shall be considered the manufacturer of any such film so sold by him for purposes of the tax imposed by section 4171.

§ 48.4173 Statutory provisions; exemptions.

SEC. 4173. *Exemptions.* The tax imposed under this part shall not apply to—

(1) *Cameras.* X-ray cameras or cameras weighing more than four pounds exclusive of lens and accessories;

(2) *Lenses.* Still camera lenses having a focal length of more than one hundred and twenty millimeters, or motion picture camera lenses having a focal length of more than thirty millimeters;

(3) *Film.* X-ray film, unperforated microfilm, film more than one hundred and fifty feet in length, or film more than twenty-five feet in length and more than thirty millimeters in width.

[Sec. 4173 as originally enacted and in effect Jan. 1, 1959]

§ 48.4173–1 Exempt sales.

Section 4173 provides that sales of the following articles are exempt from the tax imposed by section 4171:

(a) X-ray cameras;

(b) Cameras weighing more than four pounds exclusive of lens and accessories (for meaning of term "parts or accessories", see § 48.4171–3);

(c) Still camera lenses having a focal length of more than 120 millimeters;

(d) Motion picture camera lenses having a focal length of more than thirty millimeters;

(e) X-ray film;

(f) Unperforated microfilm;

(g) Photographic film more than 150 feet in length; and

(h) Photographic film more than 25 feet in length and more than 30 millimeters in width.

§ 48.4173–2 Other tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4171, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

FIREARMS

§ 48.4181 Statutory provisions; imposition of tax.

SEC. 4181. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—
Pistols.
Revolvers.
Articles taxable at 11 percent—
Firearms (other than pistols and revolvers).
Shells, and cartridges.

[Sec. 4181 as originally enacted and in effect Jan. 1, 1959]

§ 48.4181–1 Imposition and rates of tax.

(a) *Imposition of tax*—(1) *In general.* Section 4181 imposes a tax on the sale of the following articles by the manufacturer, producer, or importer thereof:

(i) Pistols;

(ii) Revolvers;

(iii) Firearms (other than pistols and revolvers); and

(iv) Shells and cartridges.

See, however, section 4182 and § 48.4182–1 which provides that the tax imposed by section 4181 shall not attach to the sale of firearms on which the tax imposed by section 5811 (relating to tax on the transfer of firearms) has been paid, or to the sale of any of the above-listed articles to the Defense Department. For meaning of the terms "pistols", "revolvers", "firearms", "shells", and "cartridges", see § 48.4181–2.

(2) *Parts or accessories.* No tax is imposed by section 4181 on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately, or when sold with a com-

plete firearm. Thus, no tax attaches to the sale of telescopic mounts, rubber recoil pads, rifle sights, and similar parts for firearms when sold separately, or when sold with complete firearms for use as spare parts or accessories. The tax does attach, however, to sales of complete firearms, pistols, revolvers, shells, and cartridges, or to sales of such articles which, although in a knockdown condition, are complete as to all component parts.

(b) *Rates of tax.* Tax is imposed on the sale of the articles specified in section 4181 and paragraph (a)(1) of this section at the rates indicated below:

	Percent
(1) Pistols	10
(2) Revolvers	10
(3) Firearms (other than pistols and revolvers)	11
(4) Shells and cartridges	11

The tax is computed by applying to the price for which the article is sold the applicable rate. For definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4181 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4181–2 Meaning of terms.

For purposes of the tax imposed by section 4181:

(a) *Pistols.* The term "pistols" means small projectile firearms which have a short one-hand stock or butt at an angle to the line of bore and a short barrel or barrels, and which are designed, made, and intended to be aimed and fired from one hand. The term does not include gadget devices, guns altered or converted to resemble pistols, or small portable guns erroneously referred to as pistols, as, for example, Nazi belt buckle pistols, glove pistols, or one-hand stock guns firing fixed shotgun or fixed rifle ammunition.

(b) *Revolvers.* The term "revolvers" means small projectile firearms of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

(c) *Firearms.* The term "firearms" means any portable weapons, such as rifles, carbines, machine guns, shotguns, or fowling pieces, from which a shot, bullet, or other projectile may be discharged by an explosive.

(d) *Shells and cartridges.* The terms "shells" and "cartridges" include any combination of projectile, explosive, and container which is designed, assembled, and ready for use without further manufacture in firearms, including pistols and revolvers.

§ 48.4182 Statutory provisions; exemptions.

SEC. 4182. *Exemptions*—(a) *Machine guns and short barrelled firearms.* The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid.

(b) *Sales to Defense Department.* No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for the military department shall be subject to any tax imposed on the sale or transfer of such articles.

[Sec. 4182 as originally enacted and in effect Jan. 1, 1959]

§ 48.4182–1 Exempt sales.

(a) *Machine guns and short barrelled firearms.* Section 4182(a) provides that the tax imposed by section 4181 shall not attach to the sale of any firearm on which the tax imposed by section 5811 (relating to tax on the transfer of certain machine guns and short barrelled firearms) has been paid. Any manufacturer, producer, or importer claiming such an exemption from the tax imposed by section 4181 must maintain such records and be prepared to produce such evidence as will establish the right to the exemption.

(b) *Sales to Defense Department*—(1) *In general.* Section 4182(b) provides that the tax imposed by section 4181 shall not attach to the sale of firearms, pistols, revolvers, shells, or cartridges which are purchased with funds appropriated for the military department of the United States.

(2) *Military department defined.* For purposes of section 4182(b), the term "military department" means the Department of the Army, the Department of the Navy, and the Department of the Air Force. Included in the Department of the Navy are naval aviation and the Marine Corps, and the Coast Guard when operating as a service in the Navy pursuant to the provisions of section 3 of Title 14 of the United States Code.

(3) *Supporting evidence.* Any manufacturer, producer, or importer claiming an exemption from the tax imposed by section 4181 by reason of section 4182(b) must maintain such records and be prepared to produce such evidence as will establish the right to the exemption. Generally, clearly identified orders or contracts of a military department signed by an authorized officer of such military department will be sufficient to establish the right to the exemption. In the absence of such orders or contracts, a statement, signed by an authorized officer of a military department, that the prescribed articles were purchased with funds appropriated for that military department will constitute satisfactory evidence of the right to the exemption.

§ 48.4182–2 Other tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4181, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

Subpart L—Business Machines, Pens, Mechanical Pencils and Lighters, and Matches

BUSINESS MACHINES

§ 48.4191 Statutory provisions; imposition of tax.

SEC. 4191. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof), a tax equivalent to 10 percent of the price for which so sold:

Adding machines.
Addressing machines.
Autographic registers.
Bank proof machines.
Billing machines.
Bookkeeping machines.
Calculating machines.
Card punch machines.
Cash registers.
Change making machines.
Check writing, signing, canceling, perforating, cutting, and dating machines and other check protector machine devices.
Computing machines.
Coin counters.
Dictographs.
Dictating machines.
Dictating machine record shaving machines.
Duplicating machines.
Embossing machines.
Envelope opening machines.
Erasing machines.
Folding machines.
Fanfold machines.
Fare registers and boxes.
Listing machines.
Line-a-time and similar machines.
Mailing machines.
Multigraph machines, typesetting machines and type justifying machines.
Numbering machines.
Portable paper fastening machines.
Payroll machines.
Pencil sharpeners.
Postal permit mailing machines.
Punch card machines.
Sorting machines.
Stencil cutting machines.
Shorthand writing machines.
Sealing machines.
Tabulating machines.
Ticket counting machines.
Ticket issuing machines.
Typewriters.
Transcribing machines.
Time recording devices.
Combinations of any of the foregoing.

[Sec. 4191 as originally enacted and in effect Jan. 1, 1959]

§ 48.4191–1 Imposition and rate of tax.

(a) *Imposition of tax.* Section 4191 imposes a tax on the sale of the following articles, or any combinations thereof (including in each case parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer thereof:

Adding machines.
Addressing machines.
Autographic registers.
Bank proof machines.
Billing machines.
Bookkeeping machines.
Calculating machines.
Card punch machines.
Cash registers.
Change making machines.
Check writing, signing, canceling, perforating, cutting, and dating machines and other check protector machine devices.
Computing machines.
Coin counters.
Dictographs.
Dictating machines.
Dictating machine record shaving machines.
Duplicating machines.
Embossing machines.
Envelope opening machines.
Erasing machines.
Folding machines.
Fanfold machines.

Fare registers and boxes.
Listing machines.
Line-a-time and similar machines.
Mailing machines.
Multigraph machines, typesetting machines and type justifying machines.
Numbering machines.
Portable paper fastening machines.
Payroll machines.
Pencil sharpeners.
Postal permit mailing machines.
Punch card machines.
Sorting machines.
Stencil cutting machines.
Shorthand writing machines.
Sealing machines.
Tabulating machines.
Ticket counting machines.
Ticket issuing machines.
Typewriters.
Transcribing machines.
Time recording devices.

See, however, section 4192 and § 48.4192–1 for exemption of the sale of certain cash registers and stencil cutting machines from the tax imposed by section 4191.

(b) *Rate of tax.* Tax is imposed on the sale of the articles enumerated in section 4191 and paragraph (a) of this section at the rate of 10 percent of the price for which such articles are sold. For definition of the term "price" and for application of the tax to leases of articles, see sections 4216 and 4217, respectively, and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4191 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4191–2 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4191 and paragraph (a) of § 48.4191–1 sold on or in connection therewith or with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4191 and paragraph (a) of § 48.4191–1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

§ 48.4192 Statutory provisions; exemptions.

SEC. 4192. *Exemptions.* No tax shall be imposed under section 4191 on the sale of cash registers of the type used in registering over-the-counter retail sales, or on the sale of stencil cutting machines of the type used in shipping departments in making cutout stencils for marking freight shipments.

[Sec. 4192 as amended and in effect Jan. 1, 1959]

§ 48.4192–1 Exempt sales.

Section 4192 provides that the tax imposed by section 4191 shall not attach to sales of—

(a) Cash registers of the type used in registering over-the-counter retail sales; and

(b) Stencil cutting machines of the type used in shipping departments in making cutout stencils for marking freight shipments.

§ 48.4192–2 Other tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4191, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

PENS AND MECHANICAL PENCILS AND LIGHTERS

§ 48.4201 Statutory provisions; imposition of tax.

SEC. 4201. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles, a tax equal to 10 percent of the price for which so sold:

Mechanical lighters for cigarettes, cigars and pipes.
Mechanical pencils, fountain pens and ball point pens.

[Sec. 4201 as originally enacted and in effect Jan. 1, 1959]

§ 48.4201–1 Imposition and rate of tax.

(a) *Imposition of tax.* Section 4201 imposes a tax on the sale of the following articles by the manufacturer, producer, or importer thereof:

(1) Mechanical lighters for cigarettes, cigars, and pipes.
(2) Mechanical pencils.
(3) Fountain pens.
(4) Ball point pens.

For meaning of the terms "mechanical lighters for cigarettes, cigars, and pipes", "mechanical pencils", "fountain pens", and "ball point pens", see § 48.4201–2. For exemption from the tax imposed by section 4201 of sales of articles taxable under section 4001 (relating to the tax on jewelry and related items), see section 4224 and the regulations thereunder contained in Subpart N of this part.

(b) *Rate of tax.* Tax is imposed on the sale of the articles enumerated in section 4201 and paragraph (a) of this section at the rate of 10 percent of the price for which such articles are sold. For definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4201 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4201–2 Meaning of terms.

For purposes of the tax imposed by section 4201:

(a) *Mechanical lighters for cigarettes, cigars, and pipes.* The term "mechanical lighters for cigarettes, cigars, and pipes" includes any article designed to produce by means of any type of mechanical action a flame or other heat generating source for the lighting of cigarettes, cigars, and pipes.

(b) *Mechanical pencils.* The term "mechanical pencils" includes any writing instrument which contains a moveable marking or writing substance, the desired length of which is controlled by a propelling or repelling device.

(c) *Fountain pens.* The term "fountain pens" includes any writing instrument of the type equipped with a reservoir for holding ink or other writing fluid which feeds the point when the instrument is in use.

(d) *Ball point pens.* The term "ball point pens" includes any writing instrument of the type having a reservoir, cartridge, or magazine containing a writing compound or fluid that is fed to a ball type writing device when the instrument is in use.

§ 48.4201–3 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4201, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

MATCHES

§ 48.4211 Statutory provisions; imposition of tax.

SEC. 4211. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of matches, a tax of 2 cents per 1,000 matches but not more than 10 percent of the price for which so sold, except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5½ cents per 1,000 matches.

[Sec. 4211 as originally enacted and in effect Jan. 1, 1959]

§ 48.4211–1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4211 imposes a tax on the sale of matches by the manufacturer, producer, or importer thereof. For meaning of the term "matches", see § 48.4211–2.

(b) *Rates of tax.* Tax is imposed on the sale of matches at the following rates:

(1) Fancy wooden matches packed in boxes or in bulk.	5½ cents per 1,000 matches.
(2) Wooden matches having stained, dyed, or colored sticks or stems, and packed in boxes or in bulk.	5½ cents per 1,000 matches.
(3) All other matches.	2 cents per 1,000 matches but not more than 10 percent of the price for which sold.

For meaning of the term "fancy wooden matches", see § 48.4211–2, and for definition of the term "price", see section 4216

and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4211 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4211–2 Meaning of terms.

For purposes of the tax imposed by section 4211:

(a) *Matches.* The term "matches" means all types of matches, including waxed matches, parlor matches, safety matches, book matches, vestas, etc., regardless of whether such matches are sold in bulk, boxes, books, or in any other manner.

(b) *Fancy wooden matches.* The term "fancy wooden matches" includes all matches which have wooden stems and which, in addition to serving the purpose of ordinary matches, are colored or decorated, or are manufactured in such manner as to be more ornamental or more attractive than ordinary matches.

§ 48.4211–3 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4211, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

[F.R. Doc. 60–1837; Filed, Feb. 29, 1960; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATION

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following miscellaneous amendments have been made to this subchapter:

PART 1—GENERAL PROVISIONS

Subpart C—General Policies

1. The instructions and clauses in § 1.305–6(c)(2) have been revised to permit the bidder to indicate the brand names he intends to furnish in the item description in the Schedule rather than in the Brand Name or Equal clause in the Invitation. Section 1.305–6(c)(2), as revised, reads as follows:

§ 1.305–6 Purchase descriptions.

(c) * * *

(2) When a brand name or equal purchase description is included in an invitation for bids:

(i) The following shall be inserted after each item so described in the invitation, for completion by the bidder.

Bidding on:

Manufacturer's Name _____
Brand _____ No. _____

(ii) In addition, the following clause shall be included in the invitation:

BRAND NAME OR EQUAL

As used in this clause, the term "brand name" includes identification of supplies by make and model.

Certain supplies called for by this Invitation for Bids are identified in the schedule by a brand name "or equal" description. This identification is descriptive rather than restrictive. Bids offering "or equal" supplies will be considered for award if such supplies are clearly identified in the bids and are determined by the Government to be equal to the brand named supplies in all material respects.

Bidders must clearly indicate whether their bids are based on a brand name item or on an "equal" item by furnishing the information required below. If the bidder does not identify the brand name or describe in full the "or equal" item which is offered, as provided in (1) and (2) below, the bid will be rejected.

(1) If the bidder proposes to furnish a brand name item specified in this Invitation for Bids, such brand name shall be inserted in the space provided after each item so described.

(2) If the bidder proposes to furnish an "or equal" item, the brand name of the item proposed to be furnished, if any, shall be inserted in the space provided after each item so described, and in addition, the following descriptive data must be furnished:

A full description thereof, including pertinent physical, mechanical, electrical, and chemical details and a statement explaining the differences between the item being offered and any one of the corresponding brand name items called for by this Invitation for Bids. (This information may be supplied by separate attachments to the bid.)

In negotiated procurements the foregoing provisions may be suitably modified for use in requests for proposals. If such provisions are not used, prospective contractors shall be informed that proposals offering supplies differing from those identified by brand name will be considered if the contracting officer determines that such offered supplies are equal in all material respects to the supplies identified by brand name. But the requirements of this paragraph are not mandatory for small purchases made pursuant to Subpart F, Part 3 of this subchapter.

2. A cross-reference to § 1.315 has been added after the first sentence in § 1.306–5. Section 1.306–5, as revised, now reads as follows:

§ 1.306–5 Delivery terms.

To preclude any misunderstanding by suppliers, delivery terms shall be stated clearly in Invitations for Bids or Requests for Proposals (see § 1.315). Contracts for supplies purchased f.o.b. destination shall generally provide that supplies shall be delivered, all transportation charges paid, to the specified destination by the contractor. Contracts for supplies purchased f.o.b. origin shall generally provide for delivery, at the Government's option, f.o.b. carrier's equipment, wharf, or freight station at a specified city or shipping point at or near the contractor's plant, in order that military traffic management offices may, in issuing routing instructions, select the mode of transportation which will provide the required service at the lowest cost.

3. Section 1.312 has been revised to prohibit issuance of invitations for bids and requests for proposals for informational and planning purposes, and to provide guidelines for the use of requests for quotations for such purposes. Section 1.312, as revised, reads as follows:

§ 1.312 Solicitations for informational or planning purposes.

It is the general policy of the Department of Defense to solicit bids, proposals or quotations only where there is a definite intention to award a contract or purchase order. However, in some cases solicitation for informational or planning purposes may be justified. Invitations for bids and requests for proposals will not be used for this purpose. Requests for quotations may be issued for informational or planning purposes only with prior approval of an individual at a level higher than the Contracting Officer. In such cases, the request for quotation shall clearly state its purpose and, in addition, the following statement in capital letters shall be placed on the face of the request: "THE GOVERNMENT DOES NOT INTEND TO AWARD A CONTRACT ON THE BASIS OF THIS REQUEST FOR QUOTATION, OR OTHERWISE PAY FOR THE INFORMATION SOLICITED."

Subpart F—Debarred, Ineligible, and Suspended Bidders

Subpart F of Part 1 has been revised to describe the effect of various kinds of debarment action on all types of contracts, including "sales" contracts. The sample of the list formerly in § 1.608 has been deleted. Subpart F, as revised, reads as follows:

§ 1.600 Scope of subpart.

This subpart prescribes policies and procedures relating to the debarment of bidders for any cause, ineligibility of bidders under section 1a of the Walsh-Healey Public Contracts Act (41 U.S. Code 35a), and the suspension of bidders for alleged fraud or other criminal conduct.

§ 1.601 Establishment and maintenance of a list of firms or individuals debarred or ineligible.

§ 1.601–1 General.

Each Department shall maintain a list of firms and individuals which it has debarred or suspended, to whom contract awards of any character, including sales, will not be made, and from whom bids or proposals will not be solicited as provided in this Subpart F.

§ 1.601–2 Information contained in departmental lists.

Each Departmental list shall show as a minimum the following information:

(a) The names of those firms or individuals debarred, ineligible, or suspended (names will be set forth in alphabetical order with appropriate cross-reference where more than one name is involved in a single action);

(b) The basis of authority for each action;

(c) The extent of restrictions imposed; and

(d) The termination date for each debarred listing.

§ 1.601–3 Joint consolidated list.

By agreement among the Military Departments, the Department of the Army is responsible for the issuance of a Joint Consolidated List of firms and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited. The Joint Consolidated List shall be kept current by notices of additions or deletions and periodic reprinting. Each Military Department shall furnish, not later than the 5th of each month, to the Office of the Assistant Secretary of the Army (Logistics) (Assistant Judge Advocate General), an alphabetical list of the additions, deletions, or modifications to the Joint Consolidated List, containing the information set forth in § 1.601–2. Each Military Department shall be responsible for determining the number of copies of the Joint Consolidated List required and for distributing the list within the Department. The Department of the Army will furnish copies to the Assistant Secretary of Defense (Supply & Logistics).

§ 1.601–4 Protection of lists.

The Joint Consolidated and Departmental Lists, and all correspondence relating thereto, shall be protected to prevent inspection of the contents by anyone other than Government personnel required to have access thereto.

§ 1.602 Limitation.

No firm or individual will be listed on a consolidated list for causes or under conditions other than those set forth in this subpart F.

§ 1.603 Grounds for listing and treatment to be accorded listed concerns.

(a) A firm or individual may be listed for any of several reasons. The particular reason for listing determines the consequences thereof. The various types of listing and the treatment to be accorded each type are set forth below :

Type A includes debarments in any of the following categories:

(1) Those listed by the Comptroller General pursuant to section 3 of the Walsh-Healey Public Contracts Act (41 U.S.C. 37) for violating the requirements of that Act;

(2) Those listed by the Comptroller General pursuant to section 3 of the Davis-Bacon Act (40 U.S.C. 376a–2(a)) for violating the requirements of that Act; and

(3) Those which the Secretary concerned or his representatives has determined to debar for any of the causes and under all of the conditions set forth in § 1.604.

Contracts shall not be awarded to, nor bids or proposals solicited from, nor invitations for bids nor requests for proposals furnished to, concerns which are listed as Type A and which are debarred because of Walsh-Healey or Davis-Bacon violations (categories (1) and (2) above). The same rules apply with respect to Type A listings within category (3) above, unless the Secretary concerned or his representative determines it to be in the interest of the Government to make an exception for a particular procurement action, or unless the listing indicates that the debarment is not to apply to sales contracts or to procurement contracts (see § 1–606).

Type B includes concerns which the Secretary of Labor has determined to be ineligible because they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1(a) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(a)). Under that Act, procurement contracts in excess of $10,000 shall not be awarded to concerns under Type B listings for those materials, articles, or equipment with respect to which the concern has been found to be ineligible. The Department of Defense, as a matter of policy, applies the same rule to contracts of $10,000 or less. However, contracts in any amount may be awarded, and bids or proposals may be solicited, for commodities with respect to which the concern has not been declared ineligible. In connection with ineligibility under the Walsh-Healey Act (Type B listing only), the name of an individual may be listed as affiliated with an ineligible firm. This listing is intended only to prevent such individuals from evading ineligibility merely by changing their business names and addresses. It does not prohibit other firms in which such individuals have an interest, and which are qualified manufacturers or regular dealers from receiving contracts subject to the Walsh-Healey Public Contracts Act.

Type C includes concerns which the appropriate Secretary, pursuant to section 3(b) of the Buy American Act (41 U.S.C. 10b(b)), has found to have failed to comply with the "Buy American Act" clause required for construction contracts (see § 6.205). Contracts for the construction, alteration, or repair of public buildings or public works in the United States or elsewhere shall not be awarded to concerns under Type C listings; nor shall bids or proposals for such work be solicited from such concerns. However, concerns under Type C listings may be awarded contracts and may be solicited for bids or proposals for other than the construction, alteration, or repair of public buildings or public works.

Type D includes concerns which the appropriate Secretary or his representative has determined to suspend under the conditions set forth in § 1.605. Concerns under Type D listings shall not be awarded contracts, nor solicited for bids or proposals, except where the Secretary concerned or his representative determines it to be in the best interest of the Government to make an exception for a particular procurement, or where the listing indicates that the suspension does not apply to sales contracts or procurement contracts (see § 1.606). Authority to permit exceptions in keeping with the foregoing has been given to the Assistant Judge Advocate General for the Army, the Chief of Naval Material for the Navy, and the Deputy Chief of Staff, Materiel, for the Air Force.

Type E includes concerns which have been reported by the Secretary of Labor to have violated labor standards provisions of any of the following statutes: Anti-Kickback Act (48 Stat. 948) as amended (40 U.S.C. 276c), Eight Hour Law (27 Stat. 340) as amended (40 U.S.C. 321–326), National Housing Act (53 Stat. 804) as amended (12 U.S.C. 1703), Hospital Survey and Construction Act (60 Stat. 1040), Federal Airport Act (60 Stat. 170) as amended (49 U.S.C. 1101), Housing Act of 1949 (63 Stat. 413) (42 U.S.C. 1441), School Survey and Construction Act of 1950 (64 Stat. 967) (20 U.S.C. 251), and Defense Housing and Community Facilities and Services Act of 1951 (65 Stat. 293) as amended (42 U.S.C. 1591). Concerns under Type E listings shall not be awarded contracts which are subject to any of the foregoing statutes.

(b) Administration of current contracts in all phases may be continued, notwithstanding the listing of a contractor, unless otherwise directed by the Secretary concerned or his representative. However, payment of all or part of funds due or to become due may be withheld when such action is determined to be in the best interest of the Government by the Secretary concerned or his representative.

(c) Where a listed concern is proposed as a subcontractor, the contracting officer should, where appropriate, decline to consent to subcontracting with such concern.

§ 1.604 Causes and conditions under which departments may debar contractors.

The Secretary of each Department, or his authorized representative except as limited below, is authorized to debar in the public interest a firm or an individual for any of the causes and under all the conditions set forth below. Debarment of a firm or individual under this Subpart F shall operate to debar such firm or individual throughout the Department of Defense. Placing the name of an individual or firm on the consolidated list will be for the purpose of protecting the interest of the Government and not for punishment.

§ 1.604–1 Causes for debarment.

(a) Conviction by or a judgment obtained in a court of competent jurisdiction for (1) commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract; (2) violation of the Federal antitrust statutes arising out of the submission of bids or proposals; or (3) commission of embezzlement, theft, forgery, bridery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility as a Government contractor. If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof. The foregoing does not necessarily require that a firm or individual be debarred. The decision to debar is discretionary; the seriousness of the offense, and all mitigating factors should be considered in making the decision to debar.

(b) Clear and convincing evidence of violation of contract provisions, as set forth below, when the violation is of a character so serious as to justify debarment action:

(1) Willful failure to perform in accordance with the specifications or delivery requirements in a contract;

(2) A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts: *Provided,* That such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis for debarment;

(3) Violation of the contractual provision against contingent fees; or

(4) Violation of the "Gratuities" clause, as determined by the Secretary in accordance with the provisions of the clause.

(c) For other cause of such serious and compelling nature as may be determined by the Secretary of the Department concerned to justify debarment.

(d) Debarment for any of the above causes by some other executive agency

of the Government. Such debarment may be based entirely upon the record of facts obtained by the original debarring agency, or upon a combination of additional facts with the record of facts of the original debarring agency.

§ 1.604–2 Period of debarment.

All debarments shall be for a reasonable, definitely stated period of time, commensurate with the seriousness of the cause therefor. As a general rule, a period of debarment should not exceed 5 years following the date of conviction for fraud or other criminal offense, or 3 years following the date of debarment for any other cause. However, with respect to debarment for violation of the nondiscrimination clause, the debarment shall be removed prior to the expiration of the debarment period by the Secretary who imposed the debarment upon receipt of satisfactory evidence that corrective action has been taken. In the event debarment is preceded by suspension, consideration shall be given to such period of suspension in determining the period of debarment.

§ 1.604–3 Notice of debarment.

(a) The firm or individual concerned shall be furnished with a written notice of the proposed debarment stating as a minimum (1) the fact that debarment is being considered, (2) the reasons for the proposed debarment, and (3) the period of time to be afforded to present information for consideration. If debarment is effected, the firm or individual shall be notified in writing within 10 days after determination of debarment has been made. This notice shall (i) reference the earlier notice of proposed debarment, (ii) specify the reasons for debarment, (iii) state the period of debarment, including effective dates, and (iv) advise that the debarment is effective throughout the Department of Defense. If, following the notice of proposed debarment, a determination is made that debarment will not be effected, the firm or individual shall be notified in writing accordingly.

(b) Copies of the notice of debarment and of any removals from such debarment shall be furnished to the General Services Administration.

§ 1.605 Suspension of bidders.

Suspension of a contractor or bidder is a drastic action which must be based upon adequate evidence rather than mere accusation. Placing the name of an individual or firm on the consolidated list will be for the purpose of protecting the interest of the Government and not for punishment. The suspension of a bidder is an administrative determination which may be modified when determined to be in the interest of the Government.

§ 1.605–1 Causes and conditions under which departments may suspend contractors.

(a) The Secretary of a Department or his authorized representative may, in the interest of the Government, suspend a firm or individual:

(1) Suspected of:

(i) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;

(ii) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility as a Government contractor; or

(2) For other cause of such serious and compelling nature as may be determined by the Secretary of the Department concerned to justify suspension.

(b) Suspension of a firm or individual by the Secretary of a Department, or his authorized representative, shall operate to suspend such firm or individual throughout the Department of Defense.

§ 1.605–2 Period of suspension.

All suspensions shall be for a temporary period pending the completion of investigation and such legal proceedings as may ensue. Upon the completion of such investigation or proceedings, the suspension shall be removed and, if appropriate, changed to a debarment in accordance with § 1.604–1(a).

§ 1.605–3 Restrictions during period of suspension.

During a period of suspension of a firm or individual, the following policies and procedures shall be applicable:

(a) Bids and proposals will not be solicited from suspended contractors. If received, bids and proposals will not be considered and award for contracts may not be made to suspended contractors unless it is determined to be in the best interest of the Government by the Secretary of a Department or his authorized representative.

(b) Suspended contractors will be subject to the provisions of § 1.603 (b) and (c).

§ 1.605–4 Notice of suspension.

(a) The firm or individual concerned shall be furnished a written notice by the Secretary of the Department concerned, or his authorized representative, of the suspension within 10 days after the effective date of the suspension. The notice of suspension shall state—

(1) That the suspension is based on information that the firm or individual has committed irregularities of a serious nature in business dealings with the Government or that the suspension is based on irregularities which seriously reflect on the propriety of further dealings of the firm or individual with the Government;

(2) That the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue;

(3) That bids and proposals will not be solicited from the firm or individual and if received will not be considered, and awards of contracts may not be made unless it is determined to be in the best interest of the Government by the Secretary of the Department or his authorized representative to do so; and

(4) That the suspension is effective throughout the Department of Defense.

(b) All inquiries concerning suspended contractors shall be referred to the Secretary of the Department concerned or his authorized representative for appropriate action. The Department shall not give further information to the contractor or his representatives concerning the reasons for suspension beyond that stated in the notice of suspension set forth above until the Department of Justice has been advised of the inquiry.

§ 1.606 Limited debarment or suspension.

Where it is determined to debar or suspend a concern pursuant to § 1.604–1 or § 1.605–1, the responsible official shall decide whether the debarment or suspension should extend to procurement contracts or to sales contracts or to both. If the debarment or suspension is limited either to procurement contracts or to sales contracts the listing should so indicate.

§ 1.607 Interchange of debarment information.

(a) The General Services Administration is charged by GSA Regulation 1–II–207.07 with compiling from the notifications of debarments furnished them by the Military Departments and executive agencies, a combined list of such debarments, including the basis of action, and distributing a copy of such lists to all executive agencies including the Military Departments. In general application, this listing will be for information purposes only and it is not intended to take the place of, or be in addition to, the lists maintained by the various agencies.

(b) Each Department will notify the General Services Administration of the name and address of its central office where debarment information should be sent.

(c) Each Department will check the list of debarred bidders furnished by the General Services Administration and consider firms or individuals listed thereon for inclusion upon their own lists, in accordance with the provisions of this Subpart F.

(d) On specific request, the General Services Administration has agreed to furnish to the Military Departments a copy of the notice reflecting the basis for debarment action taken by another agency for causes contained in § 1.604–1 (subsection 207.05a of GSA Regulation 1–II) or under the Buy American Act. If desired, direct inquiry concerning any debarment case may be made to the agency which originated the action.

§ 1.608 [Reserved]

§ 1.609 Procurement outside the United States.

In regard to procurement outside the United States, its Territories and possessions, the principles and procedures set forth in the foregoing provisions of subpart F of this Part 1 will be applied by overseas commanders whenever pos-

sible, and as modified by the following provisions, with due consideration to laws or customs of the foreign countries in which such lists are to be applicable.

§ 1.609–1 Responsibilities and area coverage.

The Commander-in-Chief, United States European Command, the Commander-in-Chief, Pacific, and the Commander-in-Chief, Caribbean, or the Commanders of a component command which each of the these unified commanders may designate, will establish and maintain a consolidated list of offshore suppliers to whom contracts will not be awarded and from whom bids or proposals will not be solicited. The CINCEUR consolidated list will include names in the North Atlantic and Mediterranean areas including all of Europe, North Africa and the Middle East. The CINCPAC consolidated list will include names in the Far East and Pacific Ocean areas excluding United States Territories and possessions. The CINCARIB consolidated list will include names in Central and South America excluding Territories and possessions. All other overseas commanders will utilize and contribute to such list as appropriate to their geographical location or areas in which they award contracts. Lists shall not be established or maintained except as provided above.

§ 1.609–2 Information contained on overseas lists.

The lists shall show as a minimum the following information:

(a) The names and addresses of those firms or individuals to whom contracts shall not be awarded and from whom bids or proposals will not be solicited. (Names will be set forth in alphabetical order with appropriate cross reference where more than one name is involved in a single action and where a parent firm or individual in one country is known to control subisidiaries, branches, or agencies in the same or other countries.)

(b) The basis or authority for each action;

(c) The extent of restrictions imposed;

(d) The termination date for each debarred listing; and

(e) The originating activity, component or agency.

§ 1.609–3 Protection of lists.

The lists and all correspondence relative thereto shall be protected to prevent inspection of contents by personnel who are not required to have access to such information. The lists shall be marked "For Official Use Only."

§ 1.609–4 Maintenance and distribution of lists.

The lists shall be kept current by issuance of notices of additions or deletions and by periodic reprinting. Copies of the list shall be distributed to contracting officers as the unified commanders and their component commanders direct. CINCEUR, CINCPAC, and CINCARIB will exchange lists directly. Copies will also be furnished to the Assistant Secretary of Defense (Supply and Logistics), the Assistant Secretary of Defense (International Security Affairs), the Assistant Secretary of the Army (Logistics) (Assistant Judge Advocate General), the Chief of Naval Material (Code M22), and the Commander, Air Material Command (MCPI).

§ 1.609–5 [Reserved]

§ 1.609–6 Basis of addition of firms and individuals on lists.

In addition to the names of offshore firms or individuals which may be included on the lists as falling into the categories outlined in § 1.603, the names of firms or individuals abroad shall be included on the list in the following additional categories:

(a) Those who are "designated nationals" under the Foreign Assets Control Regulations;

(b) Those found by the Assistant Secretary of Defense (ISA) or his authorized representative to have engaged in improper East-West trade activity;

(c) Those found by the Assistant Secretary of Defense (ISA) or his authorized representative to be ineligible because they do not meet the political or security criteria;

(d) Those found by a United States Diplomatic Mission or a Country Team (consisting of members of the United States Diplomatic Mission in the country or countries in which the firms or individuals are located) to be ineligible because they do not meet the labor-political criteria; and

(e) Those who for other causes of a serious and compelling nature are so designated by the unified commander.

Subpart G—Small Business Concerns

1. Section 1.701–1(a) has been revised to reflect special industry definitions for construction, aircraft equipment and parts, petroleum refining, food, canning, and preserving, and air transportation. These definitions have been made available previously to the military departments, and are currently in effect. Section 1.701–1(a), as revised, now reads as follows:

§ 1.701 Definitions.

* * * * *

§ 1.701–1 Small business concern.

(a) (1) *General definitions.* Except as provided in subparagraph (2) of this paragraph, a small business concern is a concern that is (i) independently owned and operated, is not dominant in its field of operation and, with its affiliates, employs fewer than 500 employees, or (ii) is certified as a small business concern by SBA.

(2) *Special industry definitions.* Unless certified as a small business concern by SBA, in addition to being independently owned and operated, and not dominant in its field of operation, a small business concern in order to qualify as such must meet special criteria in the following industries:

(i) *Construction industry.* In the construction industry, the average annual receipts of the concern and its affiliates for the preceding three years must have been $5,000,000 or less; except that if the concern is located in Alaska, such receipts must have been $6,250,000 or less.

(ii) *Aircraft equipment and parts industry.* In the aircraft equipment and parts industry, the number of employees of the concern and its affiliates must not exceed 1,000 employees. This special definition for the aircraft equipment and parts industry applies only in the procurement of the following items:

Airframes and structural components.
Aircraft propellers and hubs.
Wheel and brake systems.
Jet engines.
Fuel tanks.
Aircraft hydraulic systems.
Aircraft vacuum systems.
Aircraft air-conditioning.
Heating and pressurizing equipment.
Fire control systems.
Flight instruments.
Flight simulators (except small cockpit trainers).
Aircraft de-icing systems.

(iii) *Petroleum refining industry.* In the petroleum refining industry, the concern and its affiliates must employ not more than 1,000 employees and not have more than 30,000 barrels per day crude oil capacity from owned or leased facilities.

(iv) *Food, canning, and preserving industry.* In the food, canning and preserving industry, the concern and its affiliates must employ fewer than 500 employees exclusive of "agricultural labor" as defined in 26 U.S.C. 3306(k).

(v) *Air transportation industry.* In the air transportation industry the number of employees of the concern and its affiliates must not exceed 1,000 employees.

2. Section 1.701–4 has been revised to substitute "end items" for "products." The change is made to clarify that the source of components being included in the end item is immaterial to the certification required of small business and labor surplus area concerns. Sections 1.706–5, 1.706–6, and 1.804–2 have also been revised for this same reason, and appear in sequence below. Section 1.701–4, as revised, reads as follows:

§ 1.701–4 Regular dealer (nonmanufacturer) as small business concern.

One who submits bids or offers in his own name, but who proposes to furnish a product not manufactured by himself, shall be deemed to be a small business concern only if (a) he is a small business concern within the meaning of § 1.701–1; (b) he is a regular dealer (nonmanufacturer) (see § 1.201–9(a)); and (c) in the case of a procurement set aside for small business (see § 1.706) or involving equal low bids (see § 2.406–4 of this chapter) or otherwise involving the preferential treatment of small business, he agrees to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That this § 1.701–4 does not apply to construction or service contractors.

3. Section 1.705–6 has been revised to define in greater detail the terms "capacity" and "credit" as clarified by recent decisions of the Comptroller

General. Section 1.705–6, as revised, reads as follows:

§ 1.705–6 Certificates of competency.

(a) SBA has statutory authority to certify the competency of any small business concern as to capacity and credit. "Capacity" means the overall ability of a prospective small business contractor to meet quality, quantity, and time requirements of a proposed contract and includes ability to perform, organization, experience, technical knowledge, skills, "know-how," technical equipment, and facilities. Contracting officers shall accept SBA certificates of competency as conclusive of a prospective contractor's responsibility as to capacity (see §§ 1.903–1 and 1.903–2) and credit (see § 1.903–1(b)): *Provided,* That if the contracting officer has substantial doubts as to the firm's ability to perform he shall, prior to award, refer the matter to higher authority in accordance with procedures of the Department concerned. In such cases SBA may be requested to consider withdrawal of the certificate and, in any event, the contracting officer will be informed of the final decision of SBA which shall be conclusive.

(b) If a small business concern has submitted an otherwise acceptable bid or proposal but has been found by the contracting officer to be nonresponsible as to capacity or credit, and if the bid or proposal is to be rejected for this reason alone, (i) SBA shall be notified of the circumstances so as to permit it to issue a certificate of competency, and (ii) award shall be withheld pending either SBA issuance of a certificate of competency or the expiration of ten working days after SBA is so notified, whichever is earlier, subject to the following:

(1) This procedure is not mandatory where the contracting officer certifies in writing that award must be made without delay and includes in the contract file a statement signed by him which justifies the certificate.

(2) This procedure does not apply to proposed awards of not more than $2,500.

(3) This procedure is optional, within the discretion of the contracting officer, as to proposed awards of more than $2,500, but less than $10,000.

(4) This procedure does not apply where the contracting officer has found a small business concern nonresponsible for a reason other than lack of capacity or credit. Thus, it does not apply where a concern does not satisfy the criteria of responsibility in § 1.903–1 (a), (e), (f), and (g). Where the contracting officer determines that a concern does not meet the requirements of §1.903–1(d) as to a satisfactory record of performance, the procedure is mandatory only if the unsatisfactory record of performance was due solely to inadequate capacity or credit. However, if the contracting officer has any doubt as to whether the unsatisfactory record of performance can reasonably be attributed solely to lack of capacity or credit, the matter shall be discussed with the local SBA representative. If the local SBA representative is of the opinion that the unsatisfactory record of performance is attributable solely to a lack of capacity or credit, and the contracting officer disagrees, the contracting officer shall, in accordance with Departmental procedures, forward the matter to higher authority within his Department for resolution. The decision of such higher authority shall be final. To assist SBA in determining the capacity and credit of small business concerns involved in a particular procurement, the purchasing activity shall make available to SBA all pertinent data, including technical and financial information, with respect to the small business concern involved.

(c) In procurements where the highest competence obtainable or the best scientific approach is needed, such as in certain negotiated procurements of research and development, highly complex equipment, or personal or professional services, the certificate of competency procedure is not applicable to the selection of the source offering the highest competence obtainable or the best scientific approach. However, if a small business concern has been selected on the basis of the highest competence obtainable or best scientific approach and, prior to award, the contracting officer determines that the concern is not responsible because of lack of capacity or credit, the certificate of competency procedure in paragraph (b) of this section is applicable.

4. Section 1.706–2(b)(2) has been amended to change "Production Allocation Program," referred to therein to read "Industrial Readiness Planning Program." Section 1.706–2(b)(2) as revised reads as follows:

§ 1.706–2 Review of SBA set-aside proposals.

* * * * *

(b) * * *

(2) The item to be purchased is on a Planned Procurement List or under the Industrial Readiness Planning Program; except that a total set-aside shall not be authorized when one or more large business Planned Producers hold valid Tentative Schedules of Production (DD Form 406) for the item unless it has been confirmed that none of such large businesses desires to participate in the procurement;

5. Section 1.706–5 (a) and (c)(ii) have been revised as follows:

§ 1.706–5 Total set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 1.803(a)(2), the entire amount of an individual procurement or class of procurements (including but not limited to contracts for maintenance, repair, and construction) shall be set aside for exclusive small business participation (see § 1.706–1) where there is a reasonable expectation that bids or proposals will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices. Total set-asides shall not be made unless such a reasonable expectation exists; however, see § 1.706–6 as to partial set-asides.

* * * * *

(c) * * *

NOTICE OF SMALL BUSINESS SET-ASIDE

* * * * *

(ii) Is certified as a small business concern by the Small Business Administration. In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That this additional requirement does not apply in connection with construction or service contracts. Bids or proposals received from firms which are not small business concerns shall be considered non-responsive.

6. The revised portions of the "Notices" in § 1.706–6 (c), (d) read as follows:

§ 1.706–6 Partial set-asides.

* * * * *

(c) * * *

NOTICE OF SMALL BUSINESS SET-ASIDE

* * * * *

In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That, this additional requirement does not apply in connection with construction or service contracts.

(d) * * *

NOTICE OF SMALL BUSINESS SET-ASIDE

* * * * *

(d) *Definitions.* A "small business concern" is a concern that (i) is certified as a small business concern by the Small Business Administration, or (ii) is not dominant in its field operations and with its affiliates employs fewer than 500 employees. In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That, this additional requirement does not apply in connection with construction or service contracts.

* * * * *

(f) *Instruction for Use, and Explanation of, Notice Addendum.* The quantity of each item which has been set aside is set forth on the attached Notice Addendum. As provided in (b)(2), the Notice Addendum is to be filled in only by small business concerns. Furthermore, it is to be used by such a concern only when (i) it has submitted a bid for the entire non-set-aside quantity of an Item, and (ii) it desires a total quantity in excess of the non-set-aside quantity thereof. Whether or not a small business concern may participate in the set-aside portion is dependent on its eligibility in accordance with paragraph (c) above. It should be noted, however, that to be eligible for the set-aside portion it need not have filled in the Notice Addendum. The latter should only be filled in where the concern desires a quantity in excess of the quantity set forth in the Schedule.

NOTICE ADDENDUM FOR SET-ASIDE

The quantity of each Item which has been set aside is as follows:

1 Item No.	2 Quantity set-aside	3 Quantity desired

[The issuing office will identify by line item number the supplies being procured as to which a portion is set aside and will designate the quantity set aside for each such item. The quantity desired column will be left blank for the bidder or offerer to fill in. Where the definition of a small business concern for a given industry, as prescribed by the Small Business Administration and promulgated by the Departments, differs from that set forth in the notice above, the notice shall be appropriately modified to reflect such definition.]

7. Sections 1.707–2 and 1.707–3 have been revised to require mandatory use of the Defense Subcontracting Small Business Clause (set forth in § 7.104–22) in all contracts in excess of $1,000,000, which offer substantial subcontracting possibilities. In addition, the language concerning the content of Defense Subcontracting Small Business Programs has been clarified to assure small concerns an equitable opportunity to compete for subcontracts. The new clause in § 7.104–22 has been cross-referenced in §§ 7.204–19; 7.303–12; and 7.403–13, and such amendments appear in their proper sequence below. The revised portions of §§ 1.707–2 and 1.707–3 read as follows:

§ 1.707 Subcontracting.

§ 1.707–2 Required clauses.

(a) The clause, "Utilization of Small Business Concerns," set forth in § 7.104–14, shall be included in all contracts in amounts exceeding $5,000 except—

(1) Contracts for services which are personal in nature; and

(2) Contracts which, including all subcontracts thereunder, are to be performed outside the United States, its Territories, its possessions, and Puerto Rico.

(b) The clause set forth in § 7.104–22, "Defense Subcontracting Small Business Program," shall be included in all contracts (except negotiated contracts with foreign concerns) in excess of $1,000,000 which contain the clause required by § 1.707–2(a) above and which, in the opinion of the purchasing activity, offer substantial subcontracting possibilities; except that this clause shall not be included in contracts for the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property. Prime contractors to be awarded contracts not in excess of $1,000,000, which in the opinion of the purchasing activity offer substantial subcontracting possibilities, should be urged to establish and conduct a "Defense Subcontracting Small Business Program," to accept the clause contained in § 7.104–22, and to follow the program described in § 1.707–3.

§ 1.707–3 Defense subcontracting in small business programs.

Each contractor having a prime contract which contains the clause set forth in § 7.104–22 shall be required to establish and conduct a "Defense Subcontracting Small Business Program" to include the following:

(a) Designate a small business liaison officer who will (1) maintain liaison with the purchasing activity and SBA in small business matters; (2) supervise compliance with the "Utilization of Small Business Concerns" clause; and (3) administer contractor's "Defense Subcontracting Small Business Program";

(b) Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate small business participation;

(c) Maintain records showing (1) whether each prospective subcontractor is a small business concern, and (2) procedures which have been adopted to comply with the policies set forth in this paragraph;

(d) Include the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial small business subcontracting opportunities;

(e) Require subcontractors having subcontracts in excess of $1,000,000 which contain the clause entitled "Utilization of Small Business Concerns" to establish and conduct a "Defense Subcontracting Small Business Program;" and

(f) Submit such information on subcontracting to small business as is called for on DD Form 1140.

Subpart H—Labor Surplus Area Concerns

1. Section 1.804–1(b)(2) has been amended to change "Production Allocation Program" referred to therein to read "Industrial Readiness Planning Program." Section 1.804–1(b)(2), as revised, reads as follows:

§ 1.804–1 General.

* * * * *

(b) * * *

(2) the item to be purchased is on a Planned Procurement List or under the Industrial Readiness Planning Program;

2. The revised portions of the "Notice" in § 1.804–2(b) and the "Notice" in § 1.804–2(c) read as follows:

§ 1.804–2 Set-aside procedures.

* * * * *

(b) * * *

NOTICE OF LABOR SURPLUS AREA SET-ASIDE

* * * * *

Definitions. * * *

(3) A "small business concern" is a concern that (i) is certified as a small business concern by the Small Business Administration, or (ii) is not dominant in its field of operations and with its affiliates employs fewer than 500 employees. In addition to meeting these criteria, a manufacturer or regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That, this additional requirement does not apply in connection with construction or service contracts.

(c) * * *

NOTICE OF LABOR SURPLUS AREA SET-ASIDE

(d) *Definitions.* * * *

(3) A "small business concern" is a concern that (i) is certified as a small business concern by the Small Business Administration, or (ii) is not dominant in its field of operations and with its affiliates employs fewer than 500 employees. In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That, this additional requirement does not apply in connection with construction or service contracts.

Subpart I—Responsible Prospective Contractors

1. Section 1.903–1(b) has been revised as follows:

§ 1.903 Minimum standards for responsible prospective contractors.

§ 1.903–1 General standards.

* * * * *

(b) Have adequate financial resources, or the ability to obtain such resources as required during performance of the contract (see Defense Contract Financing Regulations, Part 82, Subpart B and any amendments thereto. See also §§ 1.903–3 and 1.905–2, and, for SBA certificates of competency, § 1.705–6);

2. Section 1.904–1 has been revised as follows:

§ 1.904 Determinations of responsibility and nonresponsibility.

§ 1.904–1 Requirement.

Except as otherwise provided in § 1.904–2, no purchase shall be made from, and no contract shall be awarded to, any person or firm unless the contracting officer first makes, signs, and places in the contract file, an affirmative determination that the prospective contractor is responsible within the meaning of §§ 1.902 and 1.903. Where a certificate of competency has been issued the affirmative determination need not be made as to the factors covered by the certificate of competency. Where a bid or offer on which an award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a determination of nonresponsibility shall be made, signed, and placed in the file. The determination of responsibility or nonresponsibility shall contain a statement justifying the determination. Any supporting documents or reports, including any pre-award survey reports (see § 1.905–4) and SBA certificates of competency (see § 1.705–6), shall be attached to the determination.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

Section 2.202–4(c) has been revised to reflect recent changes in Standard Forms 1143 and 1143a (Advertising Order and Public Voucher for Advertising) and to cite the current GAO procedures for ordering and paying for newspaper advertising.

Section 2.202–4(c), as revised, reads as follows:

§ 2.202–4 Publishing in newspapers.

* * * * *

(c) the advertisement shall be prepared in accordance with Title 7, Chapter 5200, section 5220 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

PART 3—PROCUREMENT BY NEGOTIATION

Subpart I—Subcontracting Policies and Procedures

1. Section 3.902(d) has been revised to prescribe a uniform clause "Changes to Make or Buy Program" for use in contracts resulting from negotiation in which a "make or buy" review has been made, and notification of changes is required. Where such notification is required, the clause requires the consent of the contracting officer before changes in the make or buy program may be made.

§ 3.902 Review of "make or buy" program.

* * * * *

(d) In contracts resulting from negotiation in which a "make or buy" review has been made and agreement reached thereon pursuant to paragraph (c) of this section, there generally should be included a requirement for notification to the Government in advance of any proposed change to the "make or buy" program together with justification therefor. Where notification is required, the following clause shall be used:

CHANGES TO MAKE OR BUY PROGRAM

The contractor agrees to perform this contract in accordance with the "make or buy" program attached to this contract except as hereinafter provided. If the Contractor desires to change the "make or buy" program, he shall notify the Contracting Officer in writing of the proposed change reasonably in advance and shall submit justification in sufficient detail to permit evaluation of the proposed change. With respect to items deferred at the time of negotiation of this contract for later additions to the "make or buy" program, the Contractor shall notify the Contracting Officer of each proposed addition at the earliest possible time, together with justification in sufficient detail to permit evaluation. The Contractor shall not, without the written consent of the Contracting Officer, make changes or additions to the programs: *Provided,* That in his discretion, the Contracting Officer may ratify in writing any changes or additions and such ratification shall constitute the consent of the Contracting Officer required by this clause. The "make or buy" program attached to this contract shall be deemed to be modified in accordance with the written consent or ratification by the Contracting Officer.

PART 5—INTERDEPARTMENTAL PROCUREMENT

Subpart E—Procurement of Blind-Made Supplies

Section 5.504–2 has been revised to provide for use of DD Form 1155 as a purchase order without dollar limitation in the purchase of material from National Industries for the Blind. Section 5.504–2, as revised, reads as follows:

§ 5.504–2 Through National Industries for the Blind.

When procurement of blind-made supplies is to be effected through the National Industries for the Blind, such procurement shall be made by submitting directly to the National Industries for the Blind, 15 West 16th Street, New York 11, New York, a request, in letter form, for an allocation. Upon receipt of the request, requirements will be allocated by the National Industries for the Blind, and the procuring activity will be notified of the name and location of the agency designated to manufacture the requirements. Upon receipt of such notification, a delivery order (DD Form 1155) shall be issued to the designated agency for the blind. Such orders may be issued without limitation as to dollar amount and shall be recorded as obligations upon issuance.

PART 6—FOREIGN PURCHASES

Subpart A—Buy American Act—Supply and Service Contracts

Section 6.103–5(d) has been revised to exempt, from the special treatment accorded Canadian supplies, supplies for civil works acquired with funds appropriated for Civil Functions, Department of the Army. Section 6.103–5(d), as revised, reads as follows:

§ 6.103–5 Canadian supplies.

* * * * *

(d) The above exceptions from the provisions of the "Buy American Act" applicable solely to Canadian Supplies, and the special procedures relating thereto which are set forth in this subpart, do not apply to, or affect determinations made with respect to, (1) items contained in the list set forth in § 6.105, or (2) the purchase of supplies for civil works acquired with funds appropriated for Civil Functions, Department of the Army.

Subpart G—Mutual Security Act Procurements

Sections 6.701 to 6.701–3 have been revised to include appropriate references to Execute Order No. 10845, dated October 12, 1959, which is a restatement of an executive order issued under an expired statute. The order provides for the waiver of the examination of records requirement in certain contracts placed outside the United States where the requirement would be impracticable. These revised sections read as follows:

§ 6.701 Exemption from examination of records requirement.

§ 6.701–1 General.

With respect to purchases authorized to be made outside the United States under the Mutual Security Act of 1954, as amended, Executive Order No. 10784, dated October 1, 1958, as amended by Executive Order No. 10845, dated October 12, 1959, exempts:

(a) Contracts with foreign contractors to be performed outside the United States from the examination of records requirements of 10 U.S.C. 2313(b); and

(b) Contracts, and amendments and modifications thereof, entered into pursuant to Public Law 85–804 (§ 17.501 of this chapter), from the examination of records requirements of section 3(b) of that law: *Provided,* That, with respect to such contracts and amendments and modifications thereof, inclusion of the "Examination of Records" clause or compliance therewith is determined by the Department concerned to be impracticable. Such determinations may be made by any officer or official authorized to approve contracts, and amendments and modifications thereof, pursuant to § 17.201 of this chapter.

§ 6.701–2 Contracts with foreign governments.

(a) *Fixed-price contracts.* The Examination of Records clause set forth in § 7.104–15 of this chapter shall be omitted from government-to-government contracts within the scope of § 6.701–1(a).

(b) *Cost-reimbursement type contracts.* In government-to-government contracts within the scope of § 6.701–1(a), the Records clause set forth in § 7.203–7(a) of this chapter shall be modified as follows. Subparagraph (3) of the clause shall be deleted; the references in subparagraphs (4) and (5) to "documentary evidence delivered pursuant to subparagraph (3)" shall be deleted; the references to "the Comptroller General" and "his authorized representatives" shall be deleted from subparagraphs (2), (4), (5), and paragraph (b), and the word "Department" shall be inserted in lieu of the reference to Comptroller General in the proviso in subparagraph (4). In such cases, where the Records clause required by § 7.203–7 of this chapter is to be modified as provided in § 7.203–7(b) of this chapter, subparagraph (4) as set forth therein shall be modified to correspond with the modifications prescribed above.

§ 6.701–3 Contracts with other foreign contractors.

In any particular contract within the scope of § 6.701–1(a) which is made with a foreign contractor other than a foreign government, the Examination of Records clause set forth in § 7.104–15 of this chapter may be omitted (in the case of a fixed-price contract) and the Records clause set forth in § 7.203–7 of this chapter may be modified as indicated in § 6.701–2(b) (in the case of a cost-reimbursement type contract) if such omission or modification is approved by the contracting activity concerned in accordance with Departmental procedures, following a determination that such omission or modification will further the purposes of the Mutual Security Act of 1954.

PART 7—CONTRACT CLAUSES

Subpart A—Clauses for Fixed-Price Supply Contracts

1. Section 7.103–12 has been revised to provide a clause for use in foreign purchases which, by stating that decisions

under the clause "shall be conclusive to the extent permitted by law," will not tend to discredit the integrity of the United States Government.

Section 7.103–12, as revised, reads as follows:

§ 7.103–12 Disputes.

(a) Except as provided in paragraph (b) of this section, insert the following clause:

DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) of this section: *Provided,* That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law. In accordance with Departmental procedures, the foregoing clause may be modified to provide for intermediate appeal to the Head of the Procuring Activity concerned. The decision of the contracting officer referred to in the above clause shall, if mailed, be sent by certified mail, return receipt requested.

(b) In procurements to be performed outside the United States, its Territories, possessions and Puerto Rico, where it is anticipated that the contractor will be a foreign firm, insert the following clause:

DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive to the extent permitted by United States law. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided,* That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2. Revised § 7.104–22 and new § 7.104–23 read as follows:

§ 7.104–22 Defense subcontracting small business program.

In accordance with § 1.707–2(b) insert the following clause.

DEFENSE SUBCONTRACTING SMALL BUSINESS PROGRAM

(a) The contractor agrees to establish and conduct a program to afford small business concerns an equitable opportunity to compete for Defense subcontracts within their capabilities. In this connection, the Contractor shall—

(1) Designate a small business liaison officer, who will (A) maintain liaison with duly authorized representatives of the Government on small business matters, (B) supervise compliance with the clause of this contract entitled 'Utilization of Small Business Concerns, and (C) administer the Contractor's Small Business Program;

(2) Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate small business participation;

(3) Maintain records showing (A) whether each prospective subcontractor is a small business concern; and (B) procedures which have been adopted to comply with the policies set forth in this clause;

(4) Include the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial small business subcontracting opportunities; and

(5) Submit such information on subcontracting to small business as is called for on forms duly authorized by the Department of Defense.

(b) A "Small business concern" is a concern that—

(1) Is independently owned and operated, is not dominant in its field of operations and, with its affiliates, employs fewer than 500 employees; or

(2) Is certified as a small business concern by the Small Business Administration.

(c) The Contractor further agrees to insert, in any subcontract hereunder which is in excess of $1,000,000 and which contains the clause entitled "Utilization of Small Business Concerns," provisions which shall conform substantially to the language of this clause, including this paragraph (c).

§ 7.104–23 Subcontracts.

In accordance with the requirements of § 3.903–1 of this chapter, insert an appropriate Subcontracts clause.

Subpart B—Clauses for Cost-Reimbursement Type Supply Contracts

1. Paragraph (4) of the Records clause in § 7.203–7(a) and alternate paragraph (4) in § 7.203–7(b) have been revised to state that the retention period commences on the date of final payment rather than the date of submission of the final voucher.

§ 7.203–7 Records.

(a) * * *

RECORDS

(a) * * *

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) for a period of three years from the date of final payment under this contract, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (A) or (B) below.

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date or any resulting final settlement.

(b) * * *

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) for a period of three years from the date of payment of the voucher or invoice submitted by the Contractor after the completion of the work performed during any separate period of performance established by this contract or by any amendment or supplemental agreement, without regard to former or subsequent periods of performance, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (A), (B), or (C) below.

2. Paragraph (a) of the Insurance—Liability to Third Persons clause (§ 7.203–22) has been revised to have the provisos more closely conform to the policy statement in § 10.501.

§ 7.203–22 Insurance; liability to third persons.

INSURANCE—LIABILITY TO THIRD PERSONS

(a) The Contractor shall procure and thereafter maintain workmen's compensation employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as _____[1] may from time to time require with respect to performance under this contract: *Provided,* That the Contractor may with the approval of _____[1] maintain a self-insurance program: *And provided further,* That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as _____[1] may from time to time require or approve, and with insurers approved by _____[1]

3. New § 7.204–19 has been added to reference the new clause in § 7.104–22. Section 7.204–19 reads as follows:

§ 7.204–19 Defense subcontracting small business program.

In accordance with § 1.707–2(b), insert the contract clause set forth in § 7.104–22.

Subpart C—Clauses for Fixed-Price Research and Development Contracts

Sections 7.303–11 and 7.303–12 have been added as follows:

[1] In the foregoing clause, insert, in contracts of the Department of the Army the words "the Contracting Officer," and insert, in contracts of the Department of the Navy and the Department of the Air Force, the activity designated in accordance with Departmental procedures.

§ 7.303–11 Defense subcontracting small business program.

In accordance with § 1.707–2(b), insert the contract clause set forth in § 7.104–22.

§ 7.303–12 Subcontracts.

In accordance with the requirements of § 3.903–1 of this chapter, insert an appropriate Subcontracts clause.

Subpart D—Clauses for Cost-Reimbursement Type Research and Development Contracts

Section 7.403–13 has been added as follows:

§ 7.403–13 Defense subcontracting small business program.

In accordance with § 1.707–2(b), insert the contract clause set forth in § 7.104–22.

PART 8—TERMINATION OF CONTRACTS

Subpart B—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

Section 8.207(a) has been revised to change the amounts therein to $2,500 in lieu of $1,000. Section 8.207(a) now reads as follows:

§ 8.207 Audit of settlement proposals and of subcontract settlements.

(a) Each settlement proposal of $2,500 or over submitted by a prime contractor shall be referred by the contracting officer to the cognizant audit agency for appropriate examination and recommendation. The contracting officer may, in his discretion, refer for audit settlement proposals of less than $2,500. The contracting officer's referral shall be in writing and shall recommend the scope of the audit, but the auditor may expand the scope of the audit if deemed advisable. The audit agency shall submit a written report and recommendations to the contracting officer, in accordance with Departmental procedures.

Subpart C—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Type Contracts

Section 8.307–1(d) has been revised to change the amount of $1,000 shown therein to $2,500. Section 8.307–1(d), as revised, reads as follows:

§ 8.307–1 Submission of settlement proposals.

* * * * *

(d) DD Form 831 (§ 8.802–3) may be used when the total claim is less than $2,500, unless otherwise instructed by the contracting officer. Claims which would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract, shall be consolidated wherever possible and shall not be divided in such a way as to bring them below $2,500.

Subpart E—Disposition of Termination Inventory

Section 8.505–1(d) has been amended to change the amount shown therein from $1,000 to $2,500. Section 8.505–1(d), as revised, reads as follows:

§ 8.505–1 Scope of screening.

* * * * *

(d) If the total serviceable and usable property, other than production equipment, included in the contractor's inventory schedules has an original cost of $2,500 or less, such property need not be screened within the procuring activity unless the contracting officer determines that screening is desirable.

Subpart G—Clauses

The short form termination clause and the instructions therefor in § 8.705 have been revised to cover services contracts under $10,000, permitting the use of DD Form 1270 without the need for a schedule revision covering termination.

Section 8.705, as revised reads as follows:

§ 8.705 Short form termination clause for fixed-price supply and service contracts.

In order to facilitate:

(a) The handling of purchases under fixed-price supply contracts not to exceed $10,000; and

(b) The obtaining of services where it is intended that a termination claim will not be made in the event of termination for the convenience of the Government, such as contracts for, but not limited to, rental of unreserved garage space, meals for inductees, laundry, and dry-cleaning services;

the short form termination clause set forth below is authorized for use in lieu of any other clause providing for termination for the convenience of the Government; *Provided,* Such contracts obligate the Government to order or otherwise to be liable for a minimum quantity:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the Government. If this contract is for supplies and is so terminated, the Contractor shall be compensated in accordance with ASPR section VIII, in effect on this contract's date. To the extent that this contract is for services and is so terminated, the Government shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

Subpart H—Forms

1. Section 8.802–3 DD Form 831[1] (Settlement Proposal-Short Form) Note: The short form settlement proposal (DD Form 831[1]) has been revised, increasing the limitation on its use from $1,000 to $2,500, to facilitate more expeditious settlement of small termination claims.

2. Section 8.807 DD Form 1114—Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.[1]

NOTE: DD Form 1114 has been revised for the same reason as 1 above.

[1] Filed as part of original document.

PART 9—PATENTS, DATA, AND COPYRIGHTS

Subpart A—Patents

Section 9.107–7 has been revised to integrate current National Aeronautics and Space Administration patent procedures into the procedures under this Subchapter A for contracts calling for the performance of work on behalf of NASA. Section 9.107–7, as revised, reads as follows:

§ 9.107–7 Contracts placed for NASA.

(a) *"Property rights in inventions" clause.* (1) The National Aeronautics and Space Administration (NASA) will from time to time request the Departments to perform work on behalf of NASA. Such requests will state whether or not the NASA "Property Rights in Inventions" clause is required in any contract let by the Departments on behalf of NASA for the performance of the work. The following rules explain the use of patent rights clauses in such contracts.

(i) If the request states that the NASA "Property Rights in Inventions" clause is required in any resulting contract and the work to be performed is not severable and is funded wholly or in part by NASA, then the NASA "Property Rights in Inventions" clause and no other patent rights clause shall be included in the contract.

(ii) If the request states that the NASA "Property Rights in Inventions" clause is required in any resulting contract and the work to be performed under the contract is severable and is only in part for NASA, then the work which is on behalf of NASA shall be identified in the contract and the NASA "Property Rights in Inventions" clause shall be made applicable thereto. That portion of the work for a Department shall likewise be identified and the clause contained in § 9.107–2(b), or that in § 9.107–3, as appropriate, shall be made applicable to such portion if a patent rights clause is required by this part.

(iii) If the request states that the NASA "Property Rights in Inventions" clause is not required in any resulting contract and the work to be performed under the contract is not wholly on behalf of NASA, then the clause contained in § 9.107–2(b) or that in § 9.107–3, as appropriate, shall be used if a patent rights clause is required by this regulation.

(iv) If the request states that the NASA "Property Rights in Inventions" clause is not required in any resulting contract and such contract is wholly on behalf of NASA, then no patent rights clause shall be included in such contract.

(v) If the NASA "Property Rights in Inventions" clause is stated as a requirement in any such contract, the then current "Property Rights in Inventions" clause will be furnished with the request for work and, if not furnished, it must

be obtained from NASA and included in the contract.

(2) The price of any contract described in subparagraph (1) of this paragraph shall in no event be increased by reason of the inclusion of any patent rights clause in the contract.

(b) *Deviations.* No deviations shall be made under § 1.109 in any NASA "Property Rights in Inventions" clause except in paragraph (g), (h), (ii), (i), (j), and (k) thereof. Deviations from these paragraphs are hereby authorized if they parallel either variations authorized by the Regulation from the corresponding provisions of the Patent Rights clause of § 9.107–2(b), or deviations from such corresponding provisions which have been approved under § 1.109–3 of this chapter. Deviations other than those indicated above shall not be made without prior approval of NASA. Requests for such deviations, whether individual or blanket, shall be processed in accordance with § 1.109–3 of this chapter.

Subpart B—Data and Copyrights

Section 9.202–1(a) has been revised to prescribe that data received by the Government under a contract shall be identified with the number of the contract under which it is furnished. Section 9.202–1(a), as revised, reads as follows:

§ 9.202 Acquisition and use of data.

§ 9.202–1 Acquisition of data.

(a) *General.* It is the policy of the Department of Defense to encourage inventiveness and to provide incentive therefor by honoring the "proprietary data" resulting from private developments and hence to limit demands for data to that which is essential for Government purposes. The activity responsible for initiating a purchase request, after consultation with the procurement activity whenever feasible, will carefully determine the use contemplated for the data to be acquired and will specify only such data as is determined to be necessary to satisfy such use. All data received by the Government under a contract shall be identified with the number of the contract under which it is furnished. This may be accomplished by any appropriate means. Generally it should not be necessary to obtain "proprietary data" to satisfy Government requirements. The acquisition of data from a subcontractor shall be governed by the nature and circumstances of the subcontract, it being the intent of the Department of Defense that in obtaining data originating with subcontractors, the contractor shall, insofar as carrying out his obligations under a prime contract is concerned, be guided by the same policies and procedures as if the subcontractor were contracting directly with the Government and should not request unlimited rights in "proprietary data" where such rights are not required by the Government under the prime contract.

PART 10—BONDS AND INSURANCE

Subpart D—Insurance Under Fixed-Price Contracts

1. Section 10.403 has been revised to implement P.L. 85–608, approved 8 August 1958, which amended the Defense Base Act (42 U.S.C. 1651), having the effect of extending coverage of the act to noncitizens of the United States. Section 10.403, as revised, reads:

§ 10.403 Workmen's compensation insurance overseas.

(a) The Defense Base Act, as amended (42 U.S.C. 1651 et seq.), extends the application of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) to various classes of employees engaged in work outside the United States, including any employee engaged (1) in the performance of a public work contract or (2) in the performance of any contract approved or financed pursuant to the Mutual Security Act as amended (22 U.S.C. 1871 et seq.) other than (i) contracts approved or financed by the Development Loan Fund, or (ii) contracts exclusively for the furnishing of materials or supplies. As used in this paragraph, a "public work" contract includes any contract for a fixed improvement or any project whether or not fixed, involving construction, alteration, removal or repair for the public use of the United States or its allies, including projects or operations under service contracts and projects in connection with the national defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project. The following clause shall be included in all public work contracts to be performed outside the United States:

WORKMEN'S COMPENSATION INSURANCE (DEFENSE BASE ACT)

The Contractor before commencing performance under this contract shall provide and thereafter maintain such Workmen's Compensation Insurance or security as is required by the Defense Base Act, as amended (42 U.S.C. 1651). The Contractor further agrees to insert in all subcontracts hereunder to which the Defense Base Act is applicable, a clause similar to this clause, including this sentence, imposing on all such subcontractors a like requirement to comply with the Defense Base Act.

(b) Upon the recommendation of the secretary concerned, the Secretary of Labor may waive the applicability of the Defense Base Act with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees.

2. The footnotes to the Ground and Flight Risk Clause in § 10.404(a) have been revised to reflect the Air Force practice of designating individuals or activities (other than contracting officers) with authority for certain approvals under this clause. The changed paragraphs in the clause are as follows: (b) (iv), (c) (1), (3), and (5); (g); and (i). The revised paragraphs read as follows:

§ 10.404 Aircraft ground and flight risk.

(a) * * *

GROUND AND FLIGHT RISK

(b) * * *

(iv) The term "Contractor's premises" means those premises designated as such in the Schedule or in writing by the _____,[3] and any other place to which aircraft are moved for the purpose of safeguarding the aircraft.

(c) (1) The Government's assumption of risk under this clause, as to aircraft in the open, shall continue in effect unless terminated pursuant to subparagraph (3) below. Where the _____[3] finds that any of such aircraft is in the open under unreasonable conditions, he shall notify the Contractor in writing of the conditions he finds to be unreasonable and require the Contractor to correct such conditions within a reasonable time.

(3) If the _____[3] finds that the Contractor has failed to act promptly to correct such conditions or has failed to correct such conditions within a reasonable time, he may terminate the Government's assumption of risk under this clause, as to any of the aircraft which is in the open under such conditions, such termination to be effective at 12:01 a.m. on the fifteenth day following the day of receipt by the Contractor of written notice thereof. If the Contracting Officer later determines that the Contractor acted promptly to correct such conditions or that the time taken by the Contractor was not in fact unreasonable, an equitable adjustment shall, notwithstanding paragraph (f) of this clause, be made in the contract price to compensate the Contractor for any additional costs he incurred as a result of termination of the Government's assumption of risk under this clause and the contract shall be modified in writing accordingly. Any dispute as to whether the Contractor failed to act promptly to correct such conditions, or as to the reasonableness of the time for correction of such conditions, or as to such equitable adjustment, shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(5) When unreasonable conditions have been corrected, the Contractor shall promptly notify the Government thereof. The Government may elect to again assume the risks and relieve the Contractor of liabilities as provided in this clause, or not, and the _____[3] shall notify the Contractor of the Government's election. If, after correction of the unreasonable conditions, the Government elects to again assume such risks and relieve the Contractor of such liabilities, the Contractor shall be entitled to an equitable adjustment in the contract price for costs of insurance, if any, extending from the end of the third working day after the Contractor notifies the Government of such correction until the Government notifies the Contractor of such election. If the Government elects not to again assume such risks, and such conditions have in fact been corrected, the Contractor shall be entitled to an equitable adjustment for costs of insurance, if any, extending after such third working day.

* * * * *

[3] In the foregoing clause, insert, in contracts of the Department of the Army and the Department of the Air Force, the words "the Contracting Officer," and insert, in contracts of the Department of the Navy, the activity designated in accordance with Departmental procedures.

(g) In the event of damage to, or loss or destruction of, aircraft in the open, during operation, or in flight, the Contractor shall take all reasonable steps to protect such aircraft from further damage, separate damaged and undamaged aircraft, put all aircraft in the best possible order and, further, except in cases covered by (d) (vii) above, the Contractor should furnish to the _____[3] a statement of:

(i) The damaged, lost, or destroyed aircraft;

(ii) The time and origin of the damage, loss, or destruction;

(iii) All known interests in commingled property of which aircraft are a part; and

(iv) The insurance, if any, covering any part of the interest in such commingled property.

Except in cases covered by (d) (vii) above, an equitable adjustment shall be made in the amount due under this contract for expenditures made by the Contractor in performing his obligations under this paragraph (g) and this contract shall be modified in writing accordingly.

(i) In the event the Contractor is at any time reimbursed or compensated by any third person for any damage, loss, or destruction of any aircraft, the risk of which has been assumed by the Government under the provisions of this clause and for which the Contractor has been compensated by the Government, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such damage, loss, or destruction and, upon the request of the _____,[3] shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment or subrogation in favor of the Government) in obtaining recovery.

PART 16—PROCUREMENT FORMS

Subpart B—Forms for Negotiated Procurement

1. Sections 16.201, 16.201–1, and 16.201–2 have been revised to prescribe Standard Form 18 in lieu of DD Form 747. Use of Standard Form 18 is mandatory for small procurements ($2,500 or less), when written solicitations of quotations are used. The form is permissive for use in soliciting quotations above $2,500. The effective date of Standard Form 18 is 1 April 1960, although the form may be used prior to that date, if available. Sections 16.201—16.201–2, as revised, read as follows:

§ 16.201 Request for quotation (Standard Form 18).

§ 16.201–1 General.

Standard Form 18 is prescribed to obtain price, cost, delivery, and related information from suppliers.

§ 16.201–2 Conditions for use.

Standard Form 18 is authorized for use when it appears reasonably certain that the procurement will be consummated by (a) a fixed-price type contract involving extensive negotiation or, (b) a cost-reimbursement type contract. Standard Form 36 (Continuation Sheet), or DD Form 1155c (Continuation Sheet) may be used as required. Standard Form 18 may be used for negotiated procurements in excess of $2,500 and shall be used for negotiated procurements of $2,500 or less (including purchase orders) when written solicitations (other than by telegram) of quotations are used (see § 3.603 of this chapter). A quotation submitted on this form is not to be construed as an offer which can be accepted by the Government to form a binding contract. Therefore, issuance by the Government of a purchase order pursuant to a supplier's quotation does not constitute a contract, but the purchase order is an offer by the Government to the supplier to buy certain goods or services upon specified terms and conditions.

2. Sections 16.202 to 16.202–2 have been revised as follows:

Section 16.202–2 has been deleted and § 16.202 and 16.202–1 have been consolidated. The use of the DD Form 1270 referred to therein has been extended to services contracts which do not exceed $10,000. The subject caption in § 16.202, and paragraphs (b) (1) and (2) (iv), (v), and (vi), as revised, read as follows:

§ 16.202 Negotiated contract forms (DD Forms 1261 and 1270).

* * * * *

(b) *Short form negotiated supply and services contracts.*

(1) Except as provided in paragraph (a) (2) and (3) of this section, DD Form 1261 (Negotiated Contract), and DD Form 1270 (General Provisions (Short Form Negotiated Contract)), shall be used for negotiated fixed-price type supply contracts which do not exceed $10,000 and which are for standard or commercial items not involving special inspection due to complicated specifications. These forms may be used also for nonpersonal services contracts which do not exceed $10,000. Standard Form 36 (Continuation Sheet) shall be used for the Schedule and Continuation Sheet.

(2) * * *

(iv) Where the contract is solely for the procurement of data, one of the clauses set forth in §§ 9.203 through 9.206 of this chapter may be added as required by the instructions in Part 9, Subpart B of this chapter;

(v) The "Soviet-Controlled Areas" clause (§ 6.403 of this chapter) shall be inserted in the Schedule where appropriate; and

(vi) Where the contract is for services, the Termination for Convenience of the Government clause set forth in § 8.705 of this chapter shall be inserted in the schedule, and Paragraph 7 of the General Provisions deleted.

3. Section 16.203–2 (a), (b), and a portion of (c) have been revised to clarify that the policy set forth in § 3.805–1(b) will be used when accepting a prospective contractor's proposal without further negotiation. The paragraphs have also been revised to authorize use of a notice of award when DD Form 746–2 is to be used as the contract instrument. Section 16.203 (a) and (b), and the revised portion of (c) now reads as follows:

§ 16.203–2 Conditions for use.

(a) DD Forms 746 and 746–1 (together with authorized contract provisions) shall be used in connection with the negotiation of fixed-price contracts for supplies or services (other than personal) when it appears desirable to commence negotiations by soliciting written offers which, if there is written acceptance by the Government, would create a binding contract without further action.

(b) When proposals have been submitted on DD Forms 746 and 746–1 and it is in the interest of the Government and is in accordance with § 3.805–1(b) of this chapter to accept a prospective contractor's proposal without further negotiation, price and other factors considered, DD Form 746–2 shall be used. In such instances, the contract will consist of the appropriate documents listed in § 16.203–1.

(c) When a proposal submitted by a prospective contractor leads to further negotiation, the resulting contract shall be prepared in accordance with § 16.202, except that: (1) If the circumstances are such that the prospective contractor can amend its proposal in writing to reflect any necessary changes, the amended proposal may be accepted on DD Form 746–2; or (2) if all the terms and conditions agreed to as a result of such further negotiation are specifically and clearly set forth in identifiable writings, but such writings are unsuitable or too voluminous to permit acceptance of the amended proposal on DD Form 746–2 and if the circumstances of the procurement require prompt acceptance of the modified proposal, the proposal as thus modified by such further negotiation may be accepted by the issuance of a notice of award in substantially the format set forth below. In cases within subparagraph (1) of this paragraph, the use of DD Form 746–2 does not preclude the additional use of informal documents, including telegrams, as notices of award. In cases within subparagraph (2) of this paragraph, all of the terms and conditions of the contract thereby created shall be, without change or modification, promptly consolidated into a contract using the forms authorized by § 16.202, and a signed copy thereof, shall be submitted to the General Accounting Office.

NAME AND ADDRESS OF PURCHASING OFFICE

* * * * *

Subpart E—Negotiated Contract Form for Stevedoring Services (DD Form 674)

Section 16.504 has been amended to reflect recent changes in the forms and to cite the current GAO procedures for ordering and paying for newspaper advertising. Section 16.504, as revised, reads as follows:

§ 16.504 Order for paid advertisements (Standard Forms 1143 and 1143a).

The following forms will be used to order and effect payment for advertisements in newspapers (see § 2.202–4):

(a) Standard Form 1143, Advertising Order (original) (face) Public Voucher for Advertising (original) (reverse); and

[3] See footnote on p. 1787.

(b) Standard Form 1143a, Advertising Order (memorandum) (face) Public Voucher for Advertising (memorandum) (reverse).

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart B—Requests for Contractual Adjustment

1. Sections 17.206(e) and 17.208–3(a)(5) and (6) have been revised to include appropriate references to Executive Order No. 10845, dated 12 October 1959, which is a restatement of an executive order issued under an expired statute. The order provides for the waiver of the examination of records requirement in certain contracts placed outside the United States where the requirement would be impractical. Section 17.206(e) as revised, reads as follows:

§ 17.206 Contractual requirements.

* * * * *

(e) The contract clause, entitled "Examination of Records," as set forth in § 7.104–15 of this chapter except as provided in § 6.701 of this chapter as to purchases made under the Mutual Security Act;

§ 17.208–3 Submission of cases to the Contract Adjustment Board.

(a) * * *

(5) The disposition recommended, and, if contract action is recommended, the opinion of the signer that such action will facilitate the national defense; and

(6) Where the case involves a Mutual Security Act purchase within the scope of § 6.701–1(b) of this chapter, a recommendation as to the impracticability of inclusion of the Examination of Records clause set forth in § 7.104–15 of this chapter (see §§ 17.206(e) and 6.701).

G. C. BANNERMAN,
Director for Procurement Policy.

FEBRUARY 24, 1960.

[F.R. Doc. 60–1833; Filed, Feb. 29, 1960; 8:48 a.m.]

SUBCHAPTER C—MILITARY PERSONNEL

PART 65a—ADVANCE PAY FOR MILITARY PERSONNEL

The Secretary of Defense approved the following on February 17, 1960:

Sec.
65a.1 Purpose.
65a.2 Policy.

AUTHORITY: §§ 65a.1 and 65a.2 issued under Act of October 5, 1949, ch. 600, 63 Stat. 703–704; 37 U.S.C. 310c, 310d.

§ 65a.1 Purpose.

The purpose of this part is to provide for uniform implementation of 63 Stat. 703–704; 37 U.S.C. 310c, 310d within the Department of Defense. That law permits payment of up to three months' advance pay upon permanent change of station when needed to furnish temporary relief from extraordinary expenses incident to the move. It also permits payment of advance pay and allowances under those circumstances where pay and allowances cannot be disbursed regularly.

§ 65a.2 Policy.

(a) Advance pay for permanent change of station:

(1) *Personnel eligible.* Upon permanent change of station if such change is not incident to separation from the service or trial by court-martial, commissioned and warrant officers and enlisted personnel may be paid, under existing law, an advance of pay, not to exceed three months' basic pay (less income tax withholdings, Soldiers Home and FICA tax deduction and scheduled liquidation of an indebtedness, including any unliquidated amount resulting from an advance made on a different set of permanent change of station orders. All known indebtedness that has not been scheduled for collection will be scheduled or taken into account prior to effecting an advance of pay.)

(i) Normally the amount of an advance shall be limited to one month's basic pay less the deductions set forth in this subparagraph.

(ii) All advances of pay to enlisted members shall be approved by the Commanding Officer, and this approval shall be indicated on the pay order. The pay order will also include a certificate stating that the enlisted member will have at least enough time left to serve on his current enlistment to completely repay the advance (i.e., if six months are allowed for repayment, the certificate will state that the enlisted member has at least six months to serve on his current enlistment beginning with the first of the month following the month in which the advance is made). Advances of pay should not be made to officers where it is apparent that the officer's tour of duty (obligated service) will terminate prior to completion of the scheduled repayment of the advance. Commanding Officer's approval is not required on advances of pay to commissioned or warrant officers

(2) *Temporary duty.* The fact that there may be temporary duty enroute to permanent change of station will not preclude the payment of an advance of pay if the person is otherwise eligible.

(3) *Time of payment.* The advance of pay may be made at any time after receipt of orders involving a permanent change of station, but may not be made later than thirty days after reporting to the new duty station. It may be made in one, two or three installments, and is in addition to any amount otherwise due on the day the advance is made.

(4) *Liquidation of advance.* (i) Normally the amount of each advance of pay shall be fully liquidated within a period of six months (starting on the first of the month following the month in which the advance was made). Liquidation of the second or third installment, if any, will start on the first of the month following the month in which the installment is received.

(ii) In certain exceptional cases, such as assignments to MAAG or Military Mission duty in foreign countries, which involve unusually large expenditures of funds, the Secretary of the Department concerned or his designated representative, may authorize liquidation of the advance in pay over a period of not to exceed 12 months. Such cases must be fully justified by compelling reasons of hardship which would be caused if the repayment period were shorter.

(iii) An advance of pay will not be made in an amount which will require the stoppage of insurance allotments or class Q allotments. No allotment, other than a class Q allotment, will be established after the advance is made if it will prevent liquidation within the allowed period.

(iv) In the event a member is to be separated from the service prior to the expiration of the liquidation period, the liquidation of the advance will be accelerated by stopping payment of all allotments (except class Q allotments) to the extent necessary to liquidate the advance. However, class Q allotments shall be modified to the extent necessary, but not to an amount less than the basic allowance for quarters, to permit liquidation of the advance prior to discharge.

(b) Advance pay and allowances for duty at a distant station:

(1) *Personnel eligible.* Any member of the Armed Services, when ordered to duty at a distant station where pay and allowances cannot be disbursed regularly, may be paid an advance of basic pay and allowances normally not to exceed three months' basic pay and allowances (less income tax withholdings, Soldiers Home and FICA tax deductions, scheduled liquidation of indebtedness to the Government, and the total of all allotments in force.)

(2) *Procedure.* (i) Requests for such advance payments of pay and allowances for both officers and enlisted members shall be approved by the Commanding Officer. The Commanding Officer will take into consideration the lack of regularity of disbursements, and will approve only such payments as may be necessary to alleviate hardship caused by lack of regular disbursements.

(ii) Requests for authority to make payments in excess of three months' basic pay and allowances for duty at distant stations will be submitted by the Commanding Officer to the officer designated in the regulations of the Service concerned for approval.

(3) *Liquidation of advance pay and allowances.* The amount of pay and allowances advanced to members under the provisions of this paragraph shall be liquidated in full before any subsequent payment is made. (However, as an exception, liquidation on installment in accordance with an approved schedule is authorized when the distant duty is terminated earlier than anticipated, and the Secretary of the Department concerned, or his authorized representative, determines that installment liquidation is justified to prevent hardship. The

approved schedule will take into consideration the end of enlistment or separation date of the member concerned.)

(c) Recording payment and liquidation of advances: Payments and liquidation of advances of pay or pay and allowances shall be recorded in members' pay accounts in accordance with the procedures prescribed by the Service concerned.

(d) Death or separation: In the event the member dies or is separated from the service before expiration of the allowed liquidation period, any unpaid pay and allowances which the member may have been entitled to on the date of death or separation will be used in the liquidation of the advance.

(e) A member will not be entitled to both an advance of pay for permanent change of station and an advance of pay and allowances for duty at a distant station when both advances are based on the same set of orders.

MAURICE W. ROCHE,
Administrative Secretary,
Office of the Secretary of Defense.

FEBRUARY 25, 1960.

[F.R. Doc. 60-1838, Filed, Feb. 29, 1960; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 972]

[Docket No. AO–177–A19]

MILK IN TRI-STATE MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Gallipolis, Ohio, on December 3–5, 1958, pursuant to notice thereof issued on November 10, 1958 (23 F.R. 8872).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on November 4, 1959 (24 F.R. 9157) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Some of the issues on the record of that hearing were dealt with in a decision issued by the Assistant Secretary on April 10, 1959 (24 F.R. 2865). The remaining issues were reserved for a further decision on the record under the title "Conforming, clarifying and administrative changes". The issues under this title are dealt with in this decision.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

7. *Conforming, clarifying and administrative changes.* Official notice is taken of certain findings in the decision issued April 10, 1959 (24 F.R. 2865), which read as follows:

> Other changes in order provisions intended to improve the clarity and specificity of the language and to facilitate administration thereof, are deferred for another decision on this record. These changes include definitions, accounting for inventory, consolidation of provisions in briefer form where possible, elimination of obsolete provisions, and such other changes in order language as will tend to clarify or make more specific certain provisions without extending the effect of the regulation. Also, with regard to definition of "fluid milk plant" and "supply plant" there is reserved for a further decision the question of whether such definitions should include facilities within the same building not qualified for handling milk for fluid consumption, and if such changes are made in plant definition, what conforming change is needed in the producer definition or other provisions. Consideration may be given also as to different allocation of milk from plants regulated under other orders.

The provisions to be revised in accordance with the previous findings and conclusions referred to are as follows:

(a) *Definitions.* The term "route" should be redefined to include specific reference to the kind of product disposition covered by the Class I definition. These are the products which generally are intended for fluid consumption.

The term "fluid milk plant" should be redefined to include all of the milk-handling facilities on the same premises. This is necessary for administrative purposes to assure a complete and accurate accounting for producer milk. Some plants in the marketing area receive milk which is not qualified for the fluid market as well as milk qualified for fluid consumption, and include manufacturing facilities where both the inspected and uninspected milk are processed. The order has required the market administrator to arrive at a classification of producer milk on the basis of milk-handling operations both in the facilities approved for supplying the fluid market and in the unapproved facilities within the same plant. A broadening of the term "fluid milk plant" to cover all of the milk-handling facilities at the same location will give a greater assurance of proper classification for producer milk in the case of milk transferred to other fluid markets and in other handling of producer milk which involves both kinds of facilities.

The term "supply plant" should be modified similarly to include all of the milk-handling facilities at the same location. The problem of which order should regulate a supply plant if it ships milk to more than one Federal order market should be covered in a special section of this order rather than in the "fluid milk plant" definition.

The term "producer" should be modified to make clear that only those dairy farmers who have the appropriate health approval qualify as producers. This is important in connection with the kind of dual plant which handles both inspected and uninspected milk. The handler privilege and responsibility with respect to diverting a producer should be continued as under existing provisions, but the requirements with respect to accounting for and classifying milk of a diverted producer should be more specifically covered under provisions dealing with reporting and classification.

The present definition of "producer milk" states that such milk is produced by producers, but does not clearly specify that it applies only to such milk as received at a plant. The definition should be revised to specify that the milk is received from producers at a regulated plant or diverted to an unregulated plant. The definition will thus distinguish milk received directly from producers, which is the kind of milk receipt priced under the order, as opposed to milk received from other plants or from farmers who do not qualify as producers. Milk received from other plants or from farmers who do not qualify as producers is not priced by the order and is treated differently in classification.

The term "other source milk" similarly should be defined as a kind of milk receipt. Also, the modified definition would provide a more specific meaning for other source milk in the case of skim milk and butterfat used to produce milk products. This part of the definition would apply only to products reprocessed in the plant.

The term "handler" should specify that the person is a handler in his capacity as the operator of a fluid milk plant or supply plant. Since the term "person" includes an association, the words "including a cooperative association" are superfluous and may be deleted from the handler definition.

The definition of "producer-handler" should state that such person operates a fluid milk plant. This will make specific the application of regulation to any plant which supplies milk to producer-handlers in the amounts indicated in the definition of "supply plant." Assurance of orderly marketing conditions requires that the "producer-handler" definition should not serve as an avenue for undue quantities of unregulated milk to enter the market.

The definition of "cooperative association" may be made more concise by eliminating repetitive references to producer members.

(b) *Classification.* Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. The order should make specific provision for a method of accounting for inventory.

Inventory is intended to include stocks on hand of bulk milk, skim milk, cream, bottled milk and other fluid milk products designated as Class I. Manufactured products (Class II and Class III) on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for. However, handlers will need to keep records of such products but they will not be included in inventory for the purposes of accounting for current receipts.

It is concluded that inventory should be accounted for as Class III milk. If fluid milk products in inventory are accounted for as Class III milk at the end of a month, it will be necessary to provide a method to deal with the producer milk inventory, which the handler accounted for to producers as Class III milk at the end of the previous month, but which is used in the current month for Class I or II purposes. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by con-

sidering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class III milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I and Class II milk and there was an equivalent amount of producer milk classified in Class III milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I or Class II price in the current month and the Class III price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective of whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

The words "evaporated milk and condensed milk" occur in the definition of Class I milk as products excluded from Class I milk. These products are specifically named in the Class III definition. References throughout the order to products listed in the Class I definition will be clarified by eliminating these words from the Class I definition.

When milk is transferred between handlers if either of them has received other source milk, the skim milk or butterfat transferred should be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

Present provisions covering shrinkage were originally designed to fit the old definition of fluid milk plant which did not include the unapproved portion of a dual plant. The changes in the fluid milk plant and supply plant definitions herein contemplated eliminate the basis for proration of shrinkage of transfers to nonfluid milk plants.

(c) *Obsolete provisions.* It was proposed that the butter-cheese formula in the basic formula price be eliminated, since it has not been effective over a period of several years.

This part of the basic formula has been consistently lower over a period of ten years than other measures of the value of milk in manufacturing. Accordingly, it is concluded that the butter-cheese formula is not representative of the value of milk for manufacturing, nor does it properly reflect conditions in the production and marketing of milk. It should be deleted from the order.

No handler in the market now operates more than one regulated plant. If a handler operated two or more regulated plants, the combined milk utilization at all plants would be reflected in his uniform price to producers at all plants. If two or more of his plants were in different price districts, or different Class I prices applied thereat because of location differentials, the uniform price at each plant should also reflect the Class I price as it applies at the individual plant. This situation is not currently provided for in the order. The appropriate uniform prices may be calculated if the handler's plant where the highest Class I price applies is used as a basing point, and producer location differentials are expressed in terms of the difference of the Class I price at each other plant from such highest price. For each plant at which a lesser than such highest price applies, the price difference multiplied by the total hundredweight of producer milk received at the plant would be added to the combined value of producer milk at all the handler's plants. This sum would be divided by the total hundredweight of producer milk received at such plants to arrive at the uniform price at the plant where the highest Class I price applies. The respective producer location differentials would be subtracted from this price to arrive at the uniform prices at the other plants.

The butterfat differentials to handlers are arrived at by a calculation which involves the value of nonfat dry milk. This part of the calculation is a carry-over from a type of pricing of skim milk and butterfat no longer used in this order. It has only a minor effect upon the actual value of the butterfat differentials amounting currently to 6/100 of a cent. The same final result may be obtained by multiplying the butter price per pound less three cents by 1.19, instead of using the multiplier 1.2. It is concluded that the skim milk value calculation should be deleted from the butterfat differential. The multiplier applied to the butter price (after subtracting three cents per pound) should be .119, thus offsetting the deletion of the skim milk value computation, and eliminating at the same time the need for subsequent division to arrive at the butterfat differential for each one-tenth of a percent of butterfat.

The provision entitled "Diverted milk" (§ 972.53) is no longer needed inasmuch as the effect thereof is covered by other provisions which have been revised.

In the provision for payment by handlers of administrative expense, it is unnecessary to specify the obligation of cooperative associations separately, since the obligation applies to cooperatives only as handlers.

The provision presently contained in § 972.65(d) is a statement that a cooperative association's privilege to pay its members in accordance with 8c(5)(F) of the Act is not restricted by order provisions. This statement is unnecessary.

(d) *Milk and milk plants to which other orders may apply.* The definitions of "fluid milk plant" and "supply plant" as discussed in previous findings and conclusions should be subject to a general section of the order which will cover problems involving whether this order or another order applies to certain plants and certain milk receipts. Such a provision with respect to fluid milk plants was incorporated in the amendment effective May 1, 1959, based upon this record, but no change was made with respect to supply plants.

To provide a method for determining under which order a plant should be regulated, if it qualifies as a regulated plant under another order as well as a supply plant under this order, the determination should be based on whether the plant disposes of more milk in this market or the other market. Milk disposed of in this market would be that disposed of to other plants regulated under the Tri-State order. Milk disposed of in the other market would be to plants regulated under the other order or on routes in the marketing area under such other order. The determination on this basis by the market administrator should apply unless the Secretary makes a different determination.

The application of the order to supply plants involves the consideration of pass-back of Class I utilization from fluid milk plants during the months of February through September. The fluid milk plant may make such pass-back of Class I utilization to a supply plant which furnished it with milk during at least three of the preceding months of October through January. The present definition of "supply plant" excludes plants which are regulated under another order. Thus, if a plant which was a supply plant during the October–January period, becomes regulated under another order during the subsequent February–September period, it then becomes ineligible for pass-back during such months of other-order regulation. In case of any plant determined not to be a supply plant on the basis of relative amounts of milk disposed of in this and another market, the plant would have a greater association with another market than with this market and should not be eligible for pass-back.

(e) *Renumbering.* The sections of the order should be renumbered in accordance with the conventional numbering system used in other orders in this region. Some changes in designations of paragraphs, and other minor divisions, should be made where necessary.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously-issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum

prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Tri-State Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Tri-State Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of December 1959 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Tri-State marketing area, is aproved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 24th day of February 1960.

CLARENCE L. MILLER,
Assistant Secretary.

Order [1] Amending the Order Regulating the Handling of Milk in the Tri-State Marketing Area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.
970.0 Findings and determinations.

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972.94 Agents.
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AUTHORITY: §§ 972.0 to 972.95 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 972.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 972.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 972.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 972.3 Department of Agriculture.

"Department of Agriculture" means the United States Department of Agriculture.

§ 972.4 Tri-State marketing area.

"Tri-State marketing area", hereinafter called the marketing area, means all that territory within the districts described in paragraphs (a), (b), (c), and (d) of this section, including all incorporated municipalities, military reservations, facilities, and installations, and State institutions wholly or partially within the defined districts.

(a) "Pikeville-Paintsville district" of the marketing area means the territory within the counties of Martin, Magoffin, Floyd, Johnson, and Pike, all in Kentucky.

(b) "Huntington district" of the marketing area means the territory within the counties of Boyd, Greenup, and Lawrence, in Kentucky; Lawrence County in Ohio; and the counties of Cabell and Wayne, in West Virginia.

(c) "Gallipolis-Scioto district" of the marketing area means the territory within the counties of Gallia, Meigs, Scioto, and Jackson, in Ohio; the townships of Beaver, Camp Creek, Jackson, Marion, Newton, Pee Pee, Scioto, Seal, and Union in Pike County, Ohio; Mason County in West Virginia; and Magisterial Districts 2, 3 and 8 in Lewis County, Kentucky.

(d) "Athens district" of the marketing area means the territory within Athens County, Ohio; the townships of Belpre, Marietta, Muskingum, Adams, and Waterford, in Washington County, Ohio; and Lubeck, Parkersburg, Tygart, and Williams Magisterial Districts in Wood County, West Virginia.

§ 972.5 Plant.

"Plant" means the land, buildings, surroundings, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling, or processing of milk or milk products.

§ 972.6 Route.

"Route" means any delivery (including any delivery through a vendor or a sale from a plant or plant store) of any milk or milk product in the form designated as Class I disposition in § 972.41(a) other than delivery to any milk plant.

§ 972.7 Fluid milk plant.

"Fluid milk plant" means any plant from which a route is operated within the marketing area, except a plant which is a nonfluid milk plant pursuant to § 972.61.

§ 972.8 Supply plant.

Subject to the provisions of § 972.61 "supply plant" means any plant not a fluid milk plant pursuant to § 972.7, from which a total of 25,000 pounds or more of milk, or an amount of skim milk and butterfat from which 25,000 pounds or more of Class I milk is derived, is delivered during the month in fluid form from such plant to any plant(s) which is a fluid milk plant pursuant to § 972.7: *Provided*, That any plant which qualified as a supply plant for at least three of the months of October through January, inclusive, may retain such status during the months of February through September, inclusive, next following for the purposes of § 972.44(c) without meeting the minimum delivery requirements described above in this section during the latter months.

§ 972.9 District designation of fluid milk plants and supply plants.

(a) A fluid milk plant or supply plant located in the marketing area is a district plant for the district in which it is located.

(b) A fluid milk plant or supply plant located outside the marketing area is a district plant for the district in which the nearest place listed pursuant to § 972.58 is located or is adjacent thereto.

§ 972.10 Nonfluid milk plant.

"Nonfluid milk plant" means any plant which is not a fluid milk plant or supply plant and is utilized for receiving, processing or distributing milk or milk products.

§ 972.11 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 972.12 Producer.

"Producer" means a person other than a producer-handler who produces milk under a dairy farm inspection permit or equivalent certification given by a duly constituted health authority for the production of milk for fluid consumption, which milk is:

(a) Received at a fluid milk plant or supply plant (including milk caused to be delivered to such plant by a cooperative association which is not the handler for such milk); or

(b) Diverted by a handler for his account to a nonfluid milk plant during April, May, June, or July.

§ 972.13 Handler.

"Handler" means any person in his capacity as the operator of a fluid milk plant or supply plant.

§ 972.14 Producer-handler.

"Producer-handler" means any person who produces milk, operates a fluid milk plant and receives no milk from other dairy farmers.

§ 972.15 Cooperative association.

"Cooperative association" means any cooperative association of producers, duly organized as such under the laws of any state, which the Secretary determines, after application by the association:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all of its activities under the control of its members; and

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

§ 972.16 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk produced by one or more producers and (a) received at a fluid milk plant or supply plant directly from producers, or (b) diverted from a fluid milk plant or supply plant to a nonfluid milk plant in accordance with the conditions set forth in § 972.12.

§ 972.17 Other source milk.

"Other source milk" means skim milk or butterfat contained in:

(a) Receipts during the month in the form of milk or milk products designated in § 972.41(a) excluding: (1) Receipts of such milk or milk products from a fluid milk plant or supply plant, (2) producer milk;

(b) Milk products other than those in a form designated in § 972.41(a) from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

MARKET ADMINISTRATOR

§ 972.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 972.21 Powers.

The market administrator shall have the following powers with respect to this Part 972:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 972.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this Part 972, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to

enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 972.85:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 972.84, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who after the date upon which he is required to perform such acts, has not made:

(1) Reports pursuant to § 972.30 or § 972.31; or

(2) Payments pursuant to §§ 972.80 through 972.87;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Upon request, supply on or before the 25th day after the end of each month to each association of producers with respect to producers whose membership in such association has been verified by the market administrator, a record of the pounds of milk received by each handler from member producers and the class utilization of such milk. For the purpose of this report such member milk shall be prorated to each class in the proportions that the total receipts of milk from producers by such handler were classified in each class;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each month as follows:

(1) On or before the 5th day after the end of such month, the class prices and butterfat differentials computed pursuant to §§ 972.50 through 972.55; and

(2) On or before the 12th day after the end of such month, the uniform prices computed pursuant to § 972.71 and the butterfat differential computed pursuant to § 972.82.

REPORTS, RECORDS, AND FACILITIES

§ 972.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for each of the plants with respect to which he is a handler for such month, and for each accounting period within the month, in the detail and on the forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and the quantities of butterfat contained in (or used in the production of, as the case may be) producer milk received at the plant or diverted therefrom, other source milk, and milk and milk products received from any other fluid milk plant(s) and supply plant(s), and their respective sources;

(b) The utilization of such milk and milk products;

(c) Such other information with respect to such receipts and utilization as the market administrator may prescribe; and

(d) Each handler who submits reports on the basis of accounting periods of less than a month shall submit a summary report of the same information for the entire month.

§ 972.31 Other reports.

Handlers shall submit other reports as follows:

(a) The intention to receive other source milk shall be reported by the receiving handler on or before the first day other source milk is received and the intention to discontinue such receipts shall be reported on or before the last day such milk is received;

(b) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request;

(c) On or before the 20th day after the end of each month each handler shall submit to the market administrator such handler's producer payroll for the month, which shall show:

(1) The total pounds of milk received from each producer and cooperative association and the total pounds of butterfat contained in such milk,

(2) The amount of payment to each producer and cooperative association, and

(3) The nature and the amount of any deductions and charges involved in the payments to each producer and cooperative association.

§ 972.32 Records and facilities.

Each handler shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as are necessary to verify or to establish the correct data with respect to:

(a) The receipt and utilization, in whatever form, of all skim milk and butterfat handled;

(b) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled;

(c) Payments to producers and cooperative associations of producers; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each month.

§ 972.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 972.40 Skim milk and butterfat to be classified.

Skim milk and butterfat required to be reported pursuant to § 972.30 shall be classified each month by the market administrator in the classes set forth in § 972.41 subject to the provisions of §§ 972.42 through 972.46.

§ 972.41 Classes of utilization.

Subject to the conditions set forth in §§ 972.42 through 972.46, the skim milk and butterfat described in § 972.40 shall be classified by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of (except as provided in paragraph (c) (2) and (3) of this § 972.41) in fluid form as milk, skim milk, buttermilk, flavored milk, and milk drink; (2) disposed of in the form of fluid sweet or cultured sour cream, any mixture of cream and milk (or skim milk) in fluid or whipped (aerated) form containing not less than 6 percent of butterfat not specified in Class II milk or Class III milk, and eggnog; (3) used to produce concentrated milk (excluding any product named in paragraph (b) or (c) of this section as Class II milk or Class III milk) for fluid consumption; and (4) not specifically accounted for as Class II milk or Class III milk;

(b) Class II milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, and cottage cheese;

(c) Class III milk shall be all skim milk and butterfat (1) used to produce butter, frozen cream, spray process and roller process nonfat dry milk, all cheese (other than cottage cheese), evaporated and condensed milk (or skim milk) either in bulk or in hermetically sealed cans, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing whipped or aerated product, and any other milk product not specified in paragraph (a) or (b) of this section; (2) skim milk and buttermilk specifically accounted for as dumped or

disposed of for animal feed; (3) disposed of as bulk skim milk to any manufacturer of candy, soup, or bakery products who does not dispose of milk in fluid form; (4) in actual plant shrinkage of producer milk computed pursuant to § 972.42(d) but not in excess of 2 percent thereof; (5) in actual plant shrinkage of other source milk computed pursuant to § 972.42(d); and (6) in inventory on hand at the end of the month in the form of milk products listed in paragraph (a) of this section.

§ 972.42 Shrinkage.

The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, by combining the shrinkage thereof for all fluid milk plants and supply plants operated by the handler, and

(b) Prorating the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, between producer milk and other source milk at his fluid milk plants and supply plants after deducting from the total receipts therein the receipts from fluid milk plants and supply plants of other handlers.

§ 972.43 Responsibility of handlers and reclassification of milk.

All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 972.44 Transfers.

(a) Skim milk or butterfat transferred from a fluid milk plant (including diverted milk, in the case of movements to nonfluid milk plants under subparagraph (3) of this paragraph) as any item listed in § 972.41(a) shall be classified as follows:

(1) If transferred to another fluid milk plant or supply plant (except the plant of a producer-handler), it shall be classified as Class I milk unless utilization in another class is reported to the market administrator by both handlers pursuant to § 972.30: *Provided,* That skim milk or butterfat assigned to a particular class shall be limited to the amount thereof remaining in such class in the transferee-plant after the subtraction of other source milk and inventory pursuant to § 972.46 and the classification of any transfers pursuant to paragraph (b) of this section: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified so as to allocate the greatest possible Class I milk utilization (and thereafter the greatest Class II utilization) possible to the producer milk of both handlers.

(2) If transferred to a producer-handler, it shall be Class I milk; and

(3) If transferred (including by diversion) to a nonfluid milk plant, it shall be Class I milk unless:

(i) Other utilization is mutually indicated in writing to the market administrator by both the tranferor and transferee on or before the 5th day after the end of the month within which such transfer was made;

(ii) The transferee-plant maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for audit; and

(iii) Such transferee-plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided,* That if such transferee-plant had not actually used an equivalent amount of skim milk or butterfat in such indicated use, the remaining balance shall be classified in the next highest-prices available class of utilization as if the classes of utilization set forth in § 972.41 were applicable at such transferee-plant.

(b) Except as provided in paragraph (c) of this section, skim milk and butterfat transferred in the form of any item listed in § 972.41(a) from a supply plant to a fluid milk plant or to another supply plant shall be classified as reported to the market administrator by both handlers on or before the 5th day after the end of the month within which such transfer was made: *Provided,* That the sum of the amounts assigned as Class I milk for any month during the period October through January, inclusive, to all supply plants supplying a fluid milk plant shall not result in the classification as Class II milk and Class III milk of more than 10 percent of the quantity of milk received directly from producers at such fluid milk plant during the month, and if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(c) During each of the months of February through September, inclusive, a handler operating a fluid milk plant may allocate Class I milk to a supply plant(s) which transferred milk to such fluid milk plant for at least three of the months of October through January immediately preceding even though such milk is not transferred physically to such fluid milk plant during the current month: *Provided,* That the pounds to be subtracted from Class I milk and so allocated to any supply plant for the current month in the period February through September, inclusive, when added to any quantities actually transferred from such supply plant to such fluid milk plant during the current month and which are assigned to Class I milk pursuant to paragraph (b) of this section, shall not exceed the least of the following amounts:

(1) The monthly average number of pounds allocated as Class I milk from such fluid milk plant to such supply plant during the preceding period October through January, inclusive;

(2) An amount computed as follows: Determine the percentage which the pounds of Class I milk described under subparagraph (1) of this paragraph bears to the monthly average pounds of Class I milk at such fluid milk plant for the preceding period October through January, inclusive; and multiply the total Class I milk at such fluid milk plant for the current month by such percentage; and

(3) The pounds of milk received from producers at such supply plant during the current month.

(d) Skim milk and butterfat in the form of any item listed in § 972.41(a) transferred (including diverted) from a supply plant to a nonfluid milk plant shall be clasified on the same terms as movements from fluid milk plants to nonfluid milk plants pursuant to paragraph (a)(3) of this section.

§ 972.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 972.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler: *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 972.46 Allocation of skim milk and butterfat classified.

The classification of skim milk and butterfat in producer milk shall be determined as follows:

(a) The pounds of skim milk remaining in each class after making the following computations shall be the pounds in such class allocated to producer milk:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk in plant shrinkage pursuant to § 972.41(c)(4);

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available class, the pounds of skim milk in other source milk;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available class, the pounds of skim milk in beginning inventory in the form of milk and milk products listed in § 972.41(a);

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received, or which were allocated pursuant to § 972.44(c), from other fluid milk plants and supply plants asigned to such classes pursuant to § 972.44;

(5) Add to the remaining pounds of skim milk in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph (a); and

(6) If the total remaining pounds of skim milk in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the remaining pounds of skim milk in each class in series be-

ginning with the lowest-priced available class. Any amount so subtracted shall be known as overage.

(b) Allocate classified butterfat to producer milk according to the method prescribed in paragraph (a) of this section for skim milk;

(c) Determine the weighted average butterfat test of the remaining milk in each class computed pursuant to paragraphs (a) and (b) of this section.

§ 972.47 Accounting periods.

A handler may account for receipts for milk, utilization and classification of milk at his plants for periods within a month in the same manner as for a month, if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use such accounting period.

MINIMUM PRICES

§ 972.50 Basic formula price to be used in determining class prices.

The basic formula price to be used in determining the class prices provided by §§ 972.51 through 972.53 shall be the higher of the prices determined by the market administrator pursuant to paragraphs (a) and (b) of this section computed to the nearest tenth of a cent:

(a) The average of the basic (or field) prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the months at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Borden, Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Mich.
White House Milk Co., West Bend, Wis.

(b) The price computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph.

(1) From the average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago, as reported by the Department of Agriculture for the month, subtract three cents, add 20 percent thereof, and then multiply by 3.5; and

(2) From the average of the carlot prices per pound of nonfat dry milk for human consumption, spray and roller process, f.o.b. manufacturing plants in the Chicago area, as published by the Department of Agriculture for the period from the 26th day of the previous month through the 25th day of the current month deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

§ 972.51 Class I milk prices.

Subject to the provisions of §§ 972.54 through 972.57, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class I milk for the month, shall be the basic formula price determined pursuant to § 972.50 adjusted as follows:

(a) Add the following amounts for the months indicated:

	Feb., Mar., and Aug.	Apr., May, June, and July	Sept., Oct., Nov., Dec., and Jan.
Pikeville-Paintsville district plants	$1.65	$1.20	$2.10
Huntington district plants	1.55	1.10	2.00
Gallipolis-Scioto district plants	1.45	1.00	1.90
Athens district plants	1.35	.90	1.80

Provided, That beginning with the month of March 1960 add the following amounts for the months indicated:

	Mar., Apr., May, June, and July	Aug., Sept., Oct., Nov., Dec., Jan., and Feb.
Pikeville-Paintsville district plants	$1.30	$1.97
Huntington district plants	1.20	1.87
Gallipolis-Scioto district plants	1.10	1.77
Athens district plants	1.00	1.67

(b) Add or subtract a "supply-demand adjustment" of not more than 38 cents computed as follows:

(1) Divide the total gross volume of Class I milk (adjusted to eliminate duplications due to transfers between fluid milk plants) at all fluid milk plants for the second and third preceding months by the total receipts of milk from producers at such plants during the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "Class I utilization percentage";

(2) For each full percentage point that the Class I utilization percentage is above the applicable maximum base percentage listed below increase the Class I price by 3 cents; and for each full percentage point that the Class I utilization percentage is below the applicable minimum base percentage listed below decrease the Class I price by 3 cents:

Month for which price is being computed	Base utilization percentages	
	Minimum	Maximum
January	103	107
February	103	107
March	99	103
April	95	99
May	93	97
June	87	91
July	77	81
August	68	72
September	64	68
October	68	72
November	79	83
December	94	98

§ 972.52 Class II milk prices.

Subject to the provisions of §§ 972.54 through 972.57, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class II milk for each month shall be the average of prices per hundredweight computed for such month pursuant to the formula set forth in § 972.53(a), plus 25 cents: *Provided,* That the Class II price shall not be less than the price computed pursuant to § 972.53(b).

§ 972.53 Class III milk prices.

Subject to §§ 972.54 through 972.57, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class III milk for the month shall be computed as follows:

(a) For each of the months of April, May, June, and July the price for Class III milk shall be the simple average, as computed by the market administrator, of the basic (or field) prices per hundredweight ascertained to have been paid or to be paid for ungraded (manufacturing-type) milk of 3.5 percent butterfat content received from farmers during such month at the following plants:

Company and Location of plant

M and R Dietetic Laboratories, Inc., Columbus, Ohio.
Pickerington Creamery, Pickerington, Ohio.
Carnation Company, Coshocton, Ohio.
Nestles' Milk Company, Marysville, Ohio.

(b) For each month, except April, May, June, and July, the price for Class III milk shall be the basic formula price.

§ 972.54 Butterfat differentials to handlers.

If the weighted average butterfat test of producer milk which is classified in any class for any handler is more or less than 3.5 percent, there shall be added to, or subtracted from, respectively, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated by the market administrator for such class as follows:

(a) *Class I milk.* Add 1.0 cent to the butterfat differential for Class II milk computed pursuant to paragraph (b) of this section;

(b) *Class II and Class III milk.* Subtract 3 cents from the average price per pound of butter for the month as described in § 972.50(b)(1), and multiply by .119.

§ 972.55 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

§ 972.56 Prices of milk transferred by one handler to another handler.

The price to be paid by a handler for milk transferred by him to another han-

dler in any class shall be that applicable to such class of milk at the transferor handler's fluid milk plant or supply plant, pursuant to §§ 972.51 through 972.53: *Provided,* That any hauling charge with respect thereto chargeable to producers or to cooperative associations shall not exceed that customarily applied to deliveries of such producers or associations from their farms to the transferor handler's fluid milk plant or supply plant.

§ 972.57 Location adjustment credits to handlers.

(a) The price for Class I milk at a fluid milk plant or supply plant located outside the marketing area and more than 45 miles from the nearest of the following listed places, shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk for the district of the marketing area in which such nearest listed place is located or is adjacent to, less a location adjustment computed as follows: 2 cents per hundredweight for each 10 miles, or major fraction thereof, up to 100 miles, and 1.5 cents per hundredweight for each 10 miles, or major fraction thereof, in excess of 100 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from such fluid milk plant to such nearest listed place:

City Hall, Huntington, W. Va.
City Hall, Ashland, Ky.
City Hall, Portsmouth, Ohio.
City Hall, Jackson, Ohio.
City Hall, Athens, Ohio.
City Hall, Marietta, Ohio.
City Hall, Gallipolis, Ohio.
City Hall, Pikeville, Ky.
City Hall, Paintsville, Ky.
City Hall, Williamson, W. Va.

(b) The location price adjustment pursuant to this section shall apply also to milk diverted from the fluid milk plant or supply plant and classified as Class I milk.

APPLICATION OF PROVISIONS

§ 972.60 Producer-handlers.

Sections 972.40 through 972.57 and §§ 972.70 through 972.85 shall not apply to a producer-handler. Any handler who desires to qualify as a producer-handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of his qualifications satisfactory to the market administrator, and he shall furnish similar evidence of subsequent changes in his operations that affect his qualifications. Verification by the market administrator shall be made within 5 days after the date of receipt of such evidence, and shall be effective retroactively to the date on which the applicant became so eligible, but not earlier than the first day of the month during which verification of such eligibility is made.

§ 972.61 Plants subject to other orders.

(a) A plant from which during the month less Class I milk is disposed of on routes in the marketing area than in another market where the plant would be subject to the price and pooling requirements of another order issued pursuant to the Act if not subject to the price and pooling requirements pursuant to this part, shall be a nonfluid milk plant unless the Secretary determines it to be a fluid milk plant pursuant to this part.

(b) Unless the Secretary determines otherwise, any plant which qualifies as a supply plant pursuant to § 972.8 shall not be a supply plant pursuant to this part if during the month it qualifies as a fully regulated plant under another order issued pursuant to the Act and it disposes of less milk to plants regulated under this part than its combined disposition on routes in a marketing area where another order applies and to plants fully regulated under such other order.

(c) Any plant which is a nonfluid milk plant pursuant to this section shall submit such reports as the market administrator may request with respect to milk received and utilization thereof.

DETERMINATION OF UNIFORM PRICE

§ 972.70 Net obligation of handlers.

The net obligation of each handler for producer milk received by him (including milk diverted by him pursuant to § 972.11) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of such milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amount computed by multiplying pounds of overage deducted from each class pursuant to § 972.46(a) and the corresponding step of § 972.46 (b) by the applicable class price;

(c) Add a reclassification charge equal to the difference between the Class I price for the current month and the Class III price for the preceding month, or the Class II price for the current month and the Class III price for the preceding month multiplied by the hundredweight of skim milk and butterfat subtracted from Class I or Class II, respectively, pursuant to § 972.46(a)(3) and the corresponding step of § 972.46 (b) which are not in excess of the skim milk and butterfat remaining in Class III in the previous month after the subtractions pursuant to § 972.46(a)(4) and the corresponding step of § 972.46(b); and

(d) With respect to each hundredweight of Class I milk allocated to a supply plant(s) pursuant to § 972.44(c), there shall be added an amount computed by multiplying such hundredweight of milk by the amount, if any, by which the Class I price at the fluid milk plant exceeds the Class I price applicable at the respective supply plant.

§ 972.71 Computation of uniform prices.

For each month the market administrator shall compute for each handler a "uniform price" per hundredweight to be paid to producers and associations of producers for milk of 3.5 percent butterfat content as follows:

(a) From the value of milk computed for such handler pursuant to § 972.70 subtract, if the weighted average butterfat test of producer milk represented by the respective value is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by: Multiplying the amount by which its weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 972.82, and multiplying the resulting figure by the total hundredweight of such milk;

(b) Add or subtract, as the case may be, any amounts necessary to correct errors in classification for previous months as disclosed by audit of the market administrator;

(c) Adjust the resulting amount by the sum of money used in adjusting the uniform price pursuant to paragraph (f) of this section, for the previous month, to the nearest cent;

(d) Add the amount representing the total value of location adjustments on producer milk pursuant to § 972.83;

(e) Divide the result by the total hundredweight of producer milk represented by the value computed pursuant to § 972.70; and

(f) Adjust the resulting figure to the nearest cent;

(g) In case of a handler who has two or more plants at which different Class I prices apply, adjust the uniform price for each plant as provided in § 972.83.

§ 972.72 Notification to handlers.

On or before the 12th day after the end of each month, the market administrator shall notify each handler of :

(a) The amount and value of his milk in each class and the totals thereof;

(b) His uniform price at each plant; and

(c) The amounts to be paid by such handler pursuant to §§ 972.80, 972.84 and 972.85 for such month.

PAYMENTS

§ 972.80 Time and method of final payment.

Each handler shall make payment, subject to the provisions of §§ 972.81 through 972.84, for all producer milk received (including milk diverted by him pursuant to § 972.12) during each month, as follows:

(a) Except as set forth in paragraph (b) of this section, to each producer, on or before the 18th day after such month at not less than such handler's applicable uniform price for milk of 3.5 percent butterfat;

(b) To a cooperative association on or before the 16th day after such month for milk received from producers from whom such association has received written authorization to collect payment a total amount equal to not less than the sum of the individual amounts due such producers pursuant to paragraph (a) of this section;

(c) On or before the 16th day after such month each handler shall pay to each cooperative association which operates a fluid milk plant or supply plant for skim milk and butterfat received as milk or a milk product from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class by the

respective class price pursuant to §§ 972.51, 972.52, and 972.53, adjusted by the appropriate butterfat and location differentials pursuant to §§ 972.54 and 972.58: *Provided,* That payment to a cooperative association for milk classified as Class I milk (but not moved) as an interhandler transfer pursuant to § 972.44 (c) during the February–September period shall be made to such cooperative association on the basis of the difference between the Class I price and the Class III price, adjusted as provided above for butterfat test and for the location of the supply plant.

§ 972.81 Partial payments.

Handlers shall make partial payments to producers as follows:

(a) On or before the last day of each month, each handler shall make payment except as set forth in paragraph (b) of this section, to each producer at not less than such handler's uniform price of the preceding month for the milk of such producer which was received by such handler during the first 15 days of the current month; and

(b) On or before the day immediately preceding the last day of each month, each handler shall make payment to a cooperative association for milk of producers from whom such association has received written authorization to collect payment at not less than such handler's uniform price of the preceding month for all such milk which was received by such handler during the first 15 days of the current month.

§ 972.82 Butterfat differential.

The applicable uniform price to be paid each producer or cooperative association pursuant to § 972.80 shall be increased or decreased for each one tenth of one percent which the butterfat content of the milk is above or below 3.5 percent, respectively, at the rate computed by the market administrator as follows: Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago for the month as described in § 972.50(b)(1), divide the result by 10, and round to the nearest tenth of a cent.

§ 972.83 Location adjustments to producers.

In the case of any handler who operates two or more plants at which different Class I prices apply, the uniform price to producers at each plant where a lesser than the highest of such prices applies shall be reduced by the amount that the Class I price at the plant is less than such highest Class I price.

§ 972.84 Marketing services.

(a)(1) Except as set forth in paragraph (b) of this section each handler in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 972.80(a) shall make a deduction of 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(i) All milk received from producers at a plant not operated by a cooperative association;

(ii) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(iii) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s), as determined by the market administrator.

(2) Such deduction shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling, and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct in lieu of the deduction specified under paragraph (a) of this section from payments made pursuant to § 972.80(a) the amount per hundredweight of milk authorized by such producer and shall pay over, on or before the 15th day after the end of the month, such deduction to the association entitled to receive it under this paragraph (b).

§ 972.85 Expense of administration.

As his pro rata share of the expense incurred pursuant to § 972.22(d) each handler shall pay the market administrator, on or before the 15th day after the end of each month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, to be announced by the market administrator on or before the 12th day after the end of such month with respect to all receipts within the month of producer milk (including such handler's own production) and other source milk at his fluid milk plant or supply plant classified as Class I milk pursuant to § 972.46: *Provided,* That if a handler uses more than one accounting period within a month, the rate of payment with respect to the quantities of milk specified in this § 972.85 shall be the monthly rate multiplied by the number of accounting periods within the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 972.86 Errors in payments.

Whenever audit by the market administrator of a handler's reports, books, records, or accounts discloses adjustments to be made, for any reason which result in moneys due the market administrator from such handler, or due such handler from the market administrator, or due any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and explain the basis for such adjustment; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 972.87 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 972.80 through 972.87 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 972.88 Termination of obligation.

The provisions of this § 972.88 shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or such association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed;

(d) Any obligation on the part of the market administrator to pay a handler

any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 972.90 Effective time.

The provisions of this part or any amendment of this Part 972 shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 972.91.

§ 972.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds that this part or any provision of this part obstructs, or does not tend to effectuate, the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 972.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, or agency, as the Secretary may designate;

(b) The market administrator, or such other person as the Secretary may designate, shall:

(1) Continue in such capacity until removed by the Secretary,

(2) From time to time account for all receipts and disbursements, and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary may direct, and

(3) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this part.

§ 972.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 972.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this Part 972.

§ 972.95 Separability of provisions.

If any provision of this part, or the application thereof to any person or circumstances, is held invalid, the remainder of this part and the application of such provision to other persons or circumstances, shall not be affected thereby.

[F.R. Doc. 60-1806; Filed, Feb. 29, 1960; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES; SUBSTANCES GENERALLY RECOGNIZED AS SAFE

Chemicals and Substances Used in Manufacture of Paper and Paperboard Products for Food Packaging

In accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701, 72 Stat. 1785, 52 Stat. 1055, as amended; 21 U.S.C. 348, 371), the Commissioner of Food and Drugs, pursuant to the authority delegated to him by the Secretary of Health, Education, and Welfare (23 F.R. 9500), proposes to add the following substances that may be found in paper and paperboard products used in food packaging to the list of substances generally recognized as safe (Subpart B, § 121.101 (24 F.R. 9368; 25 F.R. 405)):

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(f) Substances migrating to food from paper and paperboard products used in food packaging that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Acetic acid.
Alum (double sulfate of aluminum and ammonium potassium, or sodium).
Aluminum hydroxide.
Aluminum oleate.
Aluminum palmitate.
Ammonium chloride.
Ammonium hydroxide.
Calcium chloride.
Calcium hydroxide (lime).
Calcium sulfate.
Casein.
Cellulose acetate.
Clay (kaolin).
Copper sulfate.
Cornstarch.
Corn sugar (sirup).
Dextrin.
Diatomaceous earth filler.
Ethyl cellulose.
Ethyl vanillin.
Ferric sulfate.
Ferrous sulfate.
Formic acid or sodium salt.
Glycerin.
Guar gum.
Invert sugar.
Iron, reduced.
Locust bean gum (carob bean gum).
Magnesium carbonate.
Magnesium chloride.
Magnesium hydroxide.
Magnesium sulfate.
Methyl and ethyl acrylate.
Mono and diglycerides from glycerolysis of edible fats or oils.
Oleic acid.
Oxides of iron.
Potassium sorbate.
Propionic acid.
Propylene glycol.
α-Protein.
Silicon dioxides.
Pulps from wood, straw, bagasse, or other natural sources.
Soap (sodium oleate, sodium palmitate).
Sodium aluminate.
Sodium carbonate.
Sodium chloride.
Sodium hexametaphosphate.
Sodium hydrosulfite.
Sodium hydroxide.
Sodium phosphoaluminate.
Sodium silicate.
Sodium sorbate.
Sodium sulfate.
Sodium thiosulfate (0.1 percent in salt).
Sodium tripolyphosphate.
Sorbitol.
Sulfamic acid.
Sulfuric acid.
Starch, acid modified.
Starch, pregelatinized.
Starch, unmodified.
Sucrose.
Talc.
Urea.
Vanillin.
Zinc hydrosulfite.
Zinc sulfate.

The Commissioner of Food and Drugs hereby offers an opportunity to all interested persons to present their views in writing with reference to this proposal to the Hearing Clerk, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington 25, D.C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Comments may be accompanied by a memorandum or brief in support thereof, and it is requested that all comments be submitted in quintuplicate.

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1761; Filed, Feb. 29, 1960; 8:45 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

In re: Notice of filing of petition for issuance of a regulation establishing a tolerance for oleandomycin in chicken feed and turkey feed.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), the following notice is issued.

A petition has been filed by Charles Pfizer and Company, Inc., 11 Bartlett Street, Brooklyn 6, New York, proposing the issuance of a regulation for not more than 2.2 parts per million (0.00022 percent) of oleandomycin activity (impregnated on a suitable carrier vehicle that is in itself not a food additive) in feed for chickens and turkeys for the purpose of increasing weight gain and feed efficiency, and a zero tolerance for oleandomycin in the uncooked meat of chickens and turkeys that have received feed containing oleandomycin for the uses and levels indicated.

Dated: February 24, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1835; Filed, Feb. 29, 1960; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

In re: Notice of filing of petition for issuance of regulations establishing tolerances for *O,O*-dimethyl *O*-(2,4,5-trichlorophenyl) phosphorothioate in cattle feed and in the edible portions of cattle.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), the following notice is issued:

A petition has been filed by Moorman Manufacturing Company, Quincy, Illinois, proposing the issuance of regulations to establish tolerances of 2,750 parts per million (0.275 percent) of *O,O*-dimethyl *O*-(2,4,5-trichlorophenyl) phosphorothioate in feed for cattle and a zero tolerance of *O,O*-dimethyl *O*-(2,4,5-trichlorophenyl) phosphorothioate in the edible portions of cattle that have received the medicated feed for the intended purpose of controlling cattle grubs.

Dated: February 24, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1836; Filed, Feb. 29, 1960; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 59-KC-54]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6038 and 600.6610 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 38 and VOR Federal airway No. 1510 presently extend, in part, from Moline, Ill., to Joliet, Ill. The Federal Aviation Agency has under consideration the modification of this common segment of airways, presently designated via the intersection of the Moline VOR 081° and the Joliet VOR 265° True radials, by realigning it direct from the Moline VOR to the Joliet VOR. This realignment would simplify the route structure thereby facilitating air traffic management on this segment of Victor 38 and Victor 1510. The control areas associated with Victor 38 and Victor 1510 are so designated that they would automatically conform to the modified airways. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 38, and VOR Federal airway No. 1510 from Moline, Ill., to Joliet, Ill., would be redesignated from the Moline VOR direct to the Joliet VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1818; Filed, Feb. 29, 1960; 8:46 a.m.]

[14 CFR Part 600]

[Airspace Docket No. 59-WA-221]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6214 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 214 presently extends in part from Zanesville, Ohio, to Pittsburgh, Pa. The Federal Aviation Agency has under consideration modification of this segment of Victor 214 by redesignating it from the Zanesville VOR via a VOR to be installed approximately March 1, 1960, near Bellaire, Ohio, at latitude 40°01'04" N., longitude 80°49'03" W.; to the Pittsburgh VOR. This modification would provide more precise navigational guidance for VOR equipped aircraft using this airway. The control areas associated with Victor 214 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 214 between Zanesville, Ohio, and Pittsburgh, Pa., would be designated via Bellaire, Ohio.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1825; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Part 600]

[Airspace Docket No. 59-WA-241]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6144 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 144 presently extends, in part, from Morgantown, W. Va., to Washington, D.C. The Federal Aviation Agency has under consideration modification of this segment of Victor 144 by realigning it from the Morgantown VOR via a VOR to be installed approximately October 15, 1960, near Kessel, W. Va., at latitude 39°13'32" N., longitude 78°59'22" W.; thence via the Linden, Va., VOR and the intersection of the Linden VOR 095° and the Washington, D.C., VOR 245° True radials, thence to the Washington VOR. This modification would provide more precise navigational guidance on this segment of Victor 144. The control areas associated with Victor 144 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 144 from Morgantown, W. Va., to Washington, D.C., would be designated via Kessel, W. Va.; Linden, Va.; intersection of the Linden VOR 095° and the Washington VOR 245° True radials; thence to the Washington VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1826; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Part 600]

[Airspace Docket No. 60-WA-12]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6298 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 298 extends, in part, from Dubois, Idaho, to Boysen Reservoir, Wyo. The Federal Aviation Agency has under consideration realignment of this segment of Victor 298 via the DuNoir, Wyo., VOR. This would provided more precise navigational guidance between Dubois and Boysen Reservoir. The control areas associated with Victor 298 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 298 from Dubois, Idaho, to Boysen Reservoir, Wyo., would be redesignated via DuNoir, Wyo.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 24, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1827; Filed, Feb. 29, 1960; 8:48 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-KC-47]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

Blue Federal airway No. 6 presently extends from Bangor, Mich., to Muskegon, Mich. The Federal Aviation Agency has under consideration the revocation of this airway. The Federal Aviation Agency IFR peak-day airway traffic survey from July 1, 1958, to June 30, 1959, shows less than six aircraft movements on Blue 6. On the basis of the survey, it appears that the retention of this airway and its associated control areas is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest. In addition, § 601.4606 relating to reporting points would be revoked.

If this action is taken, Blue Federal airway No. 6, its associated control areas and reporting points, would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1814; Filed, Feb. 29, 1960; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60–LA–4]

FEDERAL AIRWAYS AND ASSOCIATED CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6257 and 601.6257 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 257 extends, in part, from Delta, Utah, to Malad City, Idaho. The Federal Aviation Agency has under consideration designation of a west alternate to this airway between the Promontory Point, Utah, Intersection (intersection of the Malad City VOR 179° True and the Ogden, Utah, VOR 276° True radials) and the Malad City VOR.

The TACAN approach to Hill Air Force Base, Utah, for jet aircraft is conducted on the 157° True radial of the Hill Air Force Base TACAN. Aircraft utilizing this procedure commence the initial penetration at 20,000 feet MSL, at a point 29 nautical miles northwest of the TACAN. This point is within Victor 257. Jet aircraft utilizing the ILS approach to the airbase (153° True bearing to the ILS outer marker) commence the initial penetration at or below 18,000 feet MSL when abeam of the Corinne, Utah, fan marker. This point is just east of the eastern edge of Victor 257, however, aircraft would be crossing or descending in the airway prior to arriving at the initial penetration point. Utilization of Victor 257 is restricted when either approach is in progress. Designation of the west alternate, as proposed, would permit en route traffic to by-pass the approach area to the west and permit full utilization of the airway.

If this action is taken, a west alternate to Victor 257 and its associated control areas would be designated from the Promontory Point, Utah, Intersection, to the Malad City, Idaho, VOR via the intersection of the Salt Lake City, Utah, VOR 320° True and the Malad City, Idaho, VOR 200° True radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1816; Filed, Feb. 29, 1960; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59–NY–54]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.640, 601.640 and 601.4640 of the regulations of the Administrator, the substance of which is stated below.

Blue Federal airway No. 40 presently extends, in part, from Concord, N.H., to Lebanon, N.H. (latitude 43°38'00" N., longitude 72°20'00" W.). The Federal Aviation Agency has under consideration revocation of this segment of Blue 40. The Federal Aviation IFR peak day airway traffic survey during the period July 1, 1958 through June 30, 1959, showed less than seven aircraft movements on the segment of Blue 40 between Concord and Lebanon. On the basis of this survey, it appears that the retention of this airway segment and its associated control areas is unjustified as an assignment of airspace, and that the revocation thereof would be in the public interest.

If this action is taken, the segment of Blue Federal airway No. 40 and its associated control areas between Concord, N.H., and Lebanon, N.H. (latitude 43°38'00" N., longitude 72°20'00" W.) would be revoked. In addition, the caption to § 601.4640, relating to the associated reporting points would be amended to coincide with the modified airway.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1817; Filed, Feb. 29, 1960; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59–WA–222]

FEDERAL AIRWAYS AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6443 and 601.6443 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 443 presently extends in part from Glen Dale, W. Va., to Newcomerstown, Ohio. The Federal Aviation Agency has under consideration modification of this segment of Victor 443 which begins at the Glen Dale, W. Va., Intersection (intersection of the Pittsburgh, Pa., VOR 244° and the Zanes-

ville, Ohio, VOR 088° True radials) by redesignating it to begin at a VOR to be installed approximately March 1, 1960, near Bellaire, Ohio, at latitude 40°01'04" N., longtitude 80°49'03" W., thence to the Newcomerstown VOR. This modification would provide more precise navigational guidance for VOR equipped aircraft using this airway.

If this action is taken, the initial segment of VOR Federal airway No. 443 and associated control areas would be designated from Bellaire, Ohio, to Newcomerstown, Ohio.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C. on February 24, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1820; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-NY-56]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.645, 601.645, and 601.4645 of the regulations of the Administrator, the substance of which is stated below.

Blue Federal airway No. 45 presently extends, in part, from Keene, N.H., to Lebanon, N.H. The Federal Aviation Agency has under consideration the revocation of this segment of Blue 45. A Federal Aviation Agency IFR peak-day airway traffic survey during the period July 1, 1958, to June 30, 1959, shows no aircraft movements on this segment of Blue 45. On the basis of this survey, it appears that the retention of this airway segment and its associated control areas is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest.

If this action is taken, the segment of Blue Federal airway No. 45 and its associated control areas from Keene, N.H., to Lebanon, N.H., would be revoked. Concurrently with this action, the caption to § 601.4645 relating to reporting points would be amended to coincide with the remaining segment of the airway.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1821; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-205]

FEDERAL AIRWAYS AND CONTROL AREAS

Designation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of VOR Federal airway No. 457 from the Norwich, Conn., VOR via the Providence, R.I., VOR, and the intersection of the Providence VOR 017° and the Boston, Mass., VOR 223° True radials, to the Boston VOR. The designation of this airway would provide an alternate airway for the air traffic management of VOR equipped aircraft operating over and from the Norwich and Providence terminals to the Boston terminal area.

If this action is taken, VOR Federal airway No. 457 and its associated control areas would be designated from Norwich, Conn., via Providence, R.I., thence via the intersection of the Providence VOR 017° and the Boston, Mass., VOR 223° True radials to the Boston VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1823; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 60-KC-3]

CODED JET ROUTES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13,

24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the regulations of the Administrator, the substance of which is stated below.

L/MF jet route No. 8 presently extends from Oklahoma City, Okla., to Belleville, Ill. The Federal Aviation Agency is considering revoking Jet Route 8–L. The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1958 through June 30, 1959, showed less than three aircraft movements on Jet Route 8–L. On the basis of this survey, it appears that the retention of this jet route is unjustified and that the revocation thereof would be in the public interest.

If this action is taken, L/MF jet route No. 8 would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1815; Filed, Feb. 29, 1960; 8:46 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 60–WA–20]

CODED JET ROUTES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the regulations of the Administrator, the substance of which is stated below.

L/MF jet route No. 18 presently extends from Seattle, Wash., to Sault Ste. Marie, Mich. The Federal Aviation Agency is considering revoking this jet route. The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1958 through June 30, 1959, showed less than five aircraft movements on Jet Route 18–L. On the basis of this survey, it appears that the retention of this jet route is unjustified and that the revocation thereof would be in the public interest.

If this action is taken, L/MF jet route No. 18 would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 24, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1819; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 59–FW–112]

CODED JET ROUTES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the regulations of the Administrator, the substance of which is stated below.

L/MF jet route No. 41 presently extends from Miami, Fla., to Omaha, Nebr. The Federal Aviation Agency is considering revoking this jet route. The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1958 through June 30, 1959, showed less than 3 aircraft movements between any two reporting points on Jet Route 41–L. On the basis of this survey, it appears that the retention of this jet route is unjustified and that the revocation thereof would be in the public interest.

If this action is taken, L/MF jet route No. 41 would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1822; Filed, Feb. 29, 1960; 8:47 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 60–WA–19]

CODED JET ROUTES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the regulations of the Administrator, the substance of which is stated below.

L/MF jet route No. 39 presently extends from Crestview, Fla., to Houghton, Mich. The Federal Aviation Agency is considering revoking this jet route. The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1958 through June 30, 1959, showed less than seven aircraft movements on Jet Route 39–L. On the basis of this survey, it appears that the retention of this jet route is unjustified and that the revocation thereof would be in the public interest.

If this action is taken, L/MF jet route No. 39 would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 23, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1824; Filed, Feb. 29, 1960; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Notice 3]

ALASKA

Notice of Filing Protraction Diagrams; Fairbanks Land District

FEBRUARY 16, 1960.

Notice is hereby given that the following protraction diagrams have been officially filed of record in the Fairbanks Land Office, 516 Second Avenue, Fairbanks, Alaska. In accordance with 43 CFR 192.42a(c) (24 F.R. 4140, May 22, 1959), oil and gas offers to lease lands shown in these protracted surveys, filed 30 days after publication of this notice, must describe the lands only according to the Section, Township, and Range shown on the approved protracted surveys.

ALASKA PROTRACTION DIAGRAMS (UNSURVEYED)

FAIRBANKS MERIDIAN—FOLIO NO. 1

Sheet No.

1. T. 37 N., R. 29 E.
2. T. 37 N., Rs. 25 through 28 E.
3. T. 37 N., Rs. 21 through 24 E.
4. T. 37 N., Rs. 17 through 20 E.
5. Ts. 33 through 36 N., Rs. 17 through 20 E.
6. Ts. 33 through 36 N., Rs. 21 through 24 E.
7. Ts. 33 through 36 N., Rs. 25 through 28 E.
8. Ts. 33 through 36 N., Rs. 29 through 30 E.
9. Ts. 29 through 32 N., Rs. 29 through 30 E.
10. Ts. 29 through 32 N., Rs. 25 through 28 E.
11. Ts. 29 through 32 N., Rs. 21 through 24 E.
12. Ts. 29 through 32 N., Rs. 17 through 20 E.

FAIRBANKS MERIDIAN—FOLIO NO. 7

Sheet No.

4. Ts. 13 through 16 N., Rs. 1 through 4 E.
5. Ts. 9 through 12 N., Rs. 1 through 4 E.
6. Ts. 9 through 12 N., Rs. 5 through 8 E.
7. Ts. 9 through 12 N., Rs. 9 through 12 E.
8. Ts. 9 through 12 N., Rs. 13 through 16 E.
9. Ts. 5 through 8 N., Rs. 13 through 16 E.
10. Ts. 5 through 8 N., Rs. 9 through 12 E.
11. Ts. 5 through 8 N., Rs. 5 through 8 E.
12. Ts. 5 through 8 N., Rs. 1 through 4 E.
13. Ts. 1 through 4 N., Rs. 1 through 4 E.
15. Ts. 1 through 4 N., Rs. 9 through 12 E.
16. Ts. 1 through 4 N., Rs. 13 through 16 E.

Copies of these diagrams are for sale at one dollar ($1.00) per sheet and may be obtained from the Fairbanks Land Office, Bureau of Land Management, mailing address: 516 Second Avenue, Fairbanks, Alaska.

ROBERT L. JENKS,
Manager.

[F.R. Doc. 60-1831; Filed, Feb. 29, 1960; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 10098]

NATIONAL-PANAGRA ACCOUNTING INVESTIGATION

Notice of Oral Argument

In the matter of the proper reporting under the Uniform System of Accounts of certain flight equipment employed in the National-Panagra Interchange involving service between New York and Latin America.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on March 16, 1960, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., February 25, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-1840; Filed, Feb. 29, 1960; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13197, 13198; FCC 60M-353]

LAWRENCE W. FELT AND INTERNATIONAL GOOD MUSIC, INC.

Order Continuing Hearing

In re applications of Lawrence W. Felt, Carlsbad, California, Docket No. 13197, File No. BPH-2499; International Good Music, Inc., San Diego, California, Docket No. 13198, File No. BPH-2695; for construction permits.

On the oral request of counsel for applicant Felt, and without objection by counsel for the other parties: *It is ordered,* This 24th day of February 1960, that:

(1) The hearing previously scheduled for March 8, 1960, is furthered continued to Wednesday, March 30, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

(2) The date for exchanging supplemental exhibits is set for March 15, 1960.

(3) The date for notice of the witnesses desired for cross-examination is further extended from February 25 to March 22, 1960.

Released: February 25, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1844, Filed Feb. 29, 1960; 8:49 a.m.]

[Docket No. 12068, etc.; FCC 60M-337]

FLORENCE BROADCASTING CO., INC., ET AL.

Order Continuing Hearing Conference

In re applications of Florence Broadcasting Company, Inc., Brownsville, Tennessee, Docket No. 12068, File No. BP-10850; Tri-Cities Radio Corporation, Bristol, Virginia, et al., Docket Nos. 13222-13251, File No. BP-12724; for construction permits.

The Hearing Examiner having under consideration a motion filed on February 18, 1960, by Tri-Cities Radio Corporation, an applicant in the above-entitled proceeding, requesting (1) that the date for preliminary exchange of engineering data for Group 2 applicants be extended from February 19 to February 26, 1960; and (2) that the date for the informal engineering conference in Group 2 be extended from February 29 to March 7, 1960; and

It appearing that petitioner's engineering consultant, due to commitments in other hearings and a misunderstanding as to the due date for the preliminary exchange of engineering data, will be unable to finish the preliminary engineering studies within the prescribed time; and

It further appearing that counsel for all applicants in Group 2, with the exception of Virginia-Kentucky Broadcasting Company, Inc., which is not represented locally and which petitioner has been unable to reach by telephone, as well as those applicants linked with Group 2, and counsel for the Broadcast Bureau, have informally consented to a grant of the instant motion;

It further appearing that the requested extension of the time in which to exchange preliminary engineering data and to hold the informal engineering conference will not affect the dates now fixed for the exchange of final engineering exhibits and for the further prehearing conference;

It is ordered, This 19th day of February 1960, that the motion be and it is hereby granted; and the time within which to exchange preliminary engineering data for Group 2 be and it is hereby extended from February 19 to February 26, 1960; and the informal engineering conference be and it is hereby continued from February 29 to March 7, 1960.

Released: February 23, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1845; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket No. 12787, etc.; FCC 60M-354]

WALTER L. FOLLMER ET AL.

Notice of Conference

In re applications of Walter L. Follmer, Hamilton, Ohio, Docket No. 12787, File

No. BP-11323; Interstate Broadcasting Company, Inc. (WQXR), New York, New York, Docket No. 12790, File No. BP-11707; Booth Broadcasting Company (WTOD), Toledo, Ohio, Docket No. 12793, File No. BP-12035; for construction permits.

Notice is hereby given that a hearing conference will be held in the above-entitled proceeding at 2:00 p.m., on Wednesday, March 2, 1960.

Dated: February 24, 1960.

Released: February 25, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1846; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket No. 13090 etc.; FCC 60M-351]

FREDERICKSBURG BROADCASTING CORP. (WFVA) ET AL.

Order Scheduling Hearing

In re applications of Fredericksburg Broadcasting Corporation (WFVA), Fredericksburg, Virginia, et al., Docket Nos. 13090-13116, 13118, 13120-13127, 13129-13147, 13327; File No. BP-11550; for construction permits.

As a result of agreements reached at a prehearing conference held this day, insofar as the above proceeding relates to Group 4: *It is ordered,* This 23d day of February 1960, that:

(1) All final exhibits of any nature whatsoever shall be exchanged among the parties on or before April 4, 1960;

(2) The naming of witnesses shall be made on or before April 11, 1960; and

(3) The hearing in Group 4 of this proceeding shall commence at 10:00 a.m., April 18, 1960, in the Commission's offices in Washington, D.C.

Released: February 25, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1847; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket Nos. 13367, 13368; FCC 60M-343]

GREENTREE COMMUNICATIONS ENTERPRISES, INC., AND JERROLD ELECTRONICS CORP.

Order Following Prehearing Conference

In re applications of Greentree Communications Enterprises, Inc., Flagstaff, Arizona, Docket No. 13367, File No. BPCT-2642; Jerrold Electronics Corporation, Flagstaff, Arizona, Docket No. 13368, File No. BPCT-2670; for construction permits for new television broadcast stations (Channel 9).

A prehearing conference in the above proceeding having been held on February 19, 1960, and it appearing desirable to the Hearing Examiner that certain dates to which counsel have agreed, with the approval of the Hearing Examiner, be established by formal order;

It is ordered, This 23d day of February 1960, that (1) the hearing is to commence April 20, 1960; (2) counsel are to exchange the exhibits they expect to offer as part of their respective cases-in-chief by March 25, 1960; and (3) a further prehearing conference is to be held on April 13, 1960, at 10:00 a.m., in the offices of the Commission at Washington, D.C.;

It is further ordered, That the parties are considered to be bound by all agreements and understandings reached during the prehearing conference of February 19, 1960, the transcript of which is incorporated herein by reference and is taken as reflecting the basic ground rules to be followed in the future conduct of the hearing.

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1848; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket Nos. 13356-13359; FCC 60M-342]

HARTSVILLE BROADCASTING CO. (WHSC) ET AL.

Order Continuing Hearing

In re applications of Hartsville Broadcasting Company (WHSC), Hartsville, South Carolina, Docket No. 13356, File No. BP-12169; WMFJ, Inc. (WMFJ), Daytona Beach, Florida, Docket No. 13357, File No. BP-12623; Carter C. Peterson, tr/as Dixie Broadcasting Company (WCCP), Savannah, Georgia, Docket No. 13358, File No. BP-13140; Low Country Broadcasting Company (WQSN), Charleston, South Carolina, Docket No. 13359, File No. BP-13254; for construction permits.

Pursuant to agreements reached at the prehearing conference held February 12, 1960, in the above-captioned proceeding as set forth in the transcript of record;

It is ordered, This 23d day of February 1960, that in view of the dates scheduled for the exchange of preliminary drafts of engineering exhibits; for the informal engineering conference; for the formal exchange of engineering exhibits; for the formal exchange of exhibits of non-engineering matters; and for notification as to witnesses desired for cross-examination, on or before April 12; on April 19 at 2:00 p.m.; on or before May 3, 10, and 17, 1960, respectively, the hearing in this proceeding heretofore scheduled to commence March 23, 1960 is continued to 10:00 a.m., Tuesday, May 24, 1960, in the offices of the Commission at Washington, D.C.

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1849; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket No. 13410; FCC 60M-347]

IDAHO MICROWAVE, INC.

Order Scheduling Prehearing Conference

In re applications of Idaho Microwave, Inc., Docket No. 13410; for construction permit for new fixed radio station at Kimport Peak, Idaho (KPL24), File No. 2672-C1-P-58; for construction permit for new fixed radio station at Rock Creek, Idaho (KPL25), File No. 2673-C1-P-58; for construction permit for new fixed radio station at Jerome, Idaho (KPL26), File No. 2674-C1-P-58.

It is ordered, This 23d day of February 1960, that a prehearing conference, pursuant to § 1.111 of the Commission's rules, will be held in the above-entitled matter at 10:00 a.m., March 18, 1960, in the Commission's offices in Washington, D.C.[1]

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1850; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket Nos. 13298, 13299; FCC 60M-341]

WILLIAM P. LEDBETTER AND E. O. SMITH

Order Advancing Hearing Date

In re applications of William P. Ledbetter, Tolleson, Arizona, Docket No. 13298, File No. BP-11951; E. O. Smith, Tolleson, Arizona, Docket No. 13299, File No. BP-13137; for construction permits.

The Hearing Examiner having under consideration a "Petition to Advance Hearing Date" filed February 19, 1960, by E. O. Smith, one of the two applicants in the above-entitled proceeding, requesting that the date for commencement of the hearing be advanced from April 4, 1960 to March 3, 1960;

It appearing that the hearing in this proceeding was originally scheduled to commence February 25, 1960, but that a continuance to April 4 was granted on the motion of the parties during the prehearing conference held January 12, 1960;

It further appearing that the present motion was precipitated by an agreement between the applicants looking to the composition of their differences, which agreement has been incorporated in an amendment to the petitioner's application;

It further appearing that good cause for a grant of the relief requested has been shown since an earlier hearing date than April 4, 1960, will conduce to the expeditious despatch of the Commission's business and will operate to advance the time when a new standard broadcast facility may be established in Tolleson, Arizona;

[1] It is urged that counsel for the parties make every effort beforehand to meet informally to resolve as many of the matters under § 1.111 as possible.

It further appearing that all parties to this proceeding have agreed to the advancement of the hearing date requested by the petitioner;

It is ordered, This 23d day of February 1960, that the "Petition to Advance Hearing Date" of E. O. Smith is granted and that the hearing in this proceeding shall commence March 3, 1960, at 9:30 a.m., in the offices of the Commission, Washington, D.C.

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 60-1851; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket Nos. 13392, 13393; FCC 60M-350]

MODERN BROADCASTING CO. OF BATON ROUGE, INC., AND COMMUNITY BROADCASTING CO., INC.

Order Scheduling Prehearing Conference

In re applications of Modern Broadcasting Company of Baton Rouge, Inc., Baton Rouge, Louisiana, Docket No. 13392, File No. BPCT-2648; Community Broadcasting Company, Inc., Baton Rouge, Louisiana, Docket No. 13393, File No. BPCT-2671; for construction permits for new television broadcast stations (Channel 9).

The Hearing Examiner having under consideration the above-captioned proceeding;

It is ordered, This 24th day of February 1960, pursuant to § 1.111 of the Commission's rules, that all parties, or their counsel, who desire to participate in the proceeding are directed to appear for a prehearing conference at 10:00 a.m., on March 3, 1960, in the offices of the Commission at Washington, D.C.

The prehearing conference will be concerned with the pertinent topics specified in § 1.111 of the Commission's rules and such other matters as will be conducive to an expeditious conduct of the hearing. In light thereof, the parties should be prepared to discuss the possibility of stipulations and agreements (see in particular Issue 5 of the Commission's order of designation, released herein February 17, 1960). In this connection attention is also called to the Commission's "Hearing Manual for Comparative Broadcast Proceedings."

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 60-1852; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket No. 13408; FCC 60M-349]

ORANGE COUNTY BROADCASTERS

Order Scheduling Hearing

In re application of Orange County Broadcasters, Anaheim, California, Docket No. 13408, File No. BP-12241; for construction permit.

It is ordered, This 24th day of February 1960, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 13, 1960, in Washington, D.C.

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 60-1853; Filed, Feb. 29, 1960; 8:49 a.m.]

[Docket Nos. 13397-13407; FCC 60M-348]

YORK COUNTY BROADCASTING CO. (WRHI) ET AL.

Order Scheduling Hearing

In re applications of James S. Beaty, Jr., William C. Beaty and Harper S. Gault, d/b as York County Broadcasting Company (WRHI), Rock Hill, South Carolina, Docket No. 13397, File No. BP-12178; WOOW, Inc. (WOOW), Greenville, North Carolina, Docket No. 13398; File No. BP-12217; WDSR, Inc. (WDSR), Lake City, Florida, Docket No. 13399, File No. BP-12219; Duane F. McConnell, Clermont, Florida, Docket No. 13400, File No. BP-12227; Radio Sumter, Inc. (WSSC), Sumter, South Carolina, Docket No. 13401, File No. BP-12270; Daytona Beach Broadcasting Corporation (WROD), Daytona Beach, Florida, Docket No. 13402, File No. BP-12626; Robeson Broadcasting Corporation (WTSB), Lumberton, North Carolina, Docket No. 13403, File No. BP-12789; Oxford Broadcasting Corporation (WOXF), Oxford, North Carolina, Docket No. 13404, File No. BP-12948; New Hanover Broadcasting Company (WGNI), Wilmington, North Carolina, Docket No. 13405, File No. BP-13016; John P. Rabb (WJRI), Lenoir, North Carolina, Docket No. 13406, File No. BP-13108; Clearwater Radio, Inc. (WTAN), Clearwater, Florida, Docket No. 13407, File No. BP-13148; for construction permits.

It is ordered, This 24th day of February 1960, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 25, 1960, in Washington, D.C.

Released: February 24, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 60-1854; Filed, Feb. 29, 1960; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-17007 etc.]

HORIZON OIL & GAS CO. ET AL.

Notice of Applications and Date of Hearing

FEBRUARY 23, 1960.

In the matter of Horizon Oil & Gas Co.,[1] Docket No. G-17007; Graham-Michaelis Drilling Company,[2] Docket No. G-17009; Wellings Oil & Gas Co. (by Emery D. Locke, Agent),[3] Docket No. G-17021; Alaska Oil and Mineral Company, Inc., et al. (by Edward P. Morgan, Agent),[4] Docket No. G-17023; J. G. Catlett Company (formerly Estate of J. G. Catlett, Deceased),[5] Docket No. G-17025; Milton F. Shaffer, Operator, et al.,[6] Docket No. G-17026; Amerada Petroleum Corporation, Docket No. G-17039; Tidewater Oil Company, Docket No. G-17040; John W. McKnab, Docket No. G-17052; General Oil Co., Inc., et al. Docket No. G-17089; L. C. Smitherman, Operator, et al.,[7] Docket No. G-17098.

Take notice that each of the above-designated parties, hereinafter referred to as Applicants, has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the respective Applicants to render natural gas service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully set forth in their respective applications which are on file with the Commission and open to public inspection.

Applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket No.; Field and Location; and Purchaser
G-17007; Hansford, Hansford County, Tex.; Northern Natural Gas Co.
G-17009; Hugoton, Texas County, Okla. and Sherman County, Tex., Phillips Petroleum Co.
G-17021; Union District, Ritchie County, W. Va.; Hope Natural Gas Co.
G-17023; Gauley River, Nicholas County, W. Va.; Godfrey L. Cabot, Inc.
G-17025; North Ruston, Lincoln Parish, La.; Mississippi River Fuel Corp.
G-17026; Hugoton, Sherman County, Tex.; Phillips Petroleum Co.
G-17039; Lerado, Reno County, Kans.; Panhandle Eastern Pipe Line Co.
G-17040; Emperor, Winkler County, Tex.; West Texas Gathering Co.
G-17052; Young, Morgan County, Colo.; Kansas-Nebraska Natural Gas Co., Inc.
G-17089; Murphy District, Ritchie County, W. Va.; Hope Natural Gas Co.
G-17098; Lerado, Reno County, Kans.; Panhandle Eastern Pipe Line Co.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 28, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to

See footnotes at end of document.

appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 15, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[1] Horizon Oil & Gas Company, a partnership composed of Curtis E. Calder, Jr., and N. Bruce Calder, proposes to sell natural gas from the subject acreage pursuant to a gas sales contract dated January 22, 1957, between Humble Oil & Refinery Company, seller (Humble), and Northern Natural Gas Company, buyer (Northern). Applicant acquired the subject acreage by assignment from Humble dated October 10, 1958.

[2] Applicant is a partnership consisting of William L. Graham, Marjorie Lois Graham and W. A. Michaelis, Jr., doing business as Graham-Michaelis Drilling Company. An amendment to the application herein was filed June 11, 1959, deleting certain acreage.

[3] Wellings Oil & Gas Co. (Applicant) is filing through its agent, Emery D. Locke.

[4] Alaska Oil and Mineral Company, Inc., Page Communications Engineers, Inc., and Smith Drilling Company are filing through their Agent, Edward P. Morgan. All are signatory seller parties to the subject gas sales contract.

[5] J. G. Catlett Company (formerly Estate of J. G. Catlett, Deceased, represented by Mrs. Augusta Catlett, Executrix and sole heir), non-operator, proposes to continue the sale of natural gas from the subject acreage pursuant to a gas sales contract dated July 1, 1951, between J. G. Catlett, seller, and Mississippi River Fuel Corporation, buyer. The application states that service from the subject acreage commenced on or about July 1, 1951, however, no request for authorization to sell said natural gas was ever made by J. G. Catlett. On February 8, 1958, the acreage passed to J. G. Catlett's Estate and service has continued without interruption. An amendment, filed May 20, 1959, requests the substitution of J. G. Catlett Company as Applicant in the subject application in place of Estate of J. G. Catlett, Deceased. By instrument of assignment dated December 30, 1958, Augusta Catlett, acting for the Estate of J. G. Catlett, Deceased, assigned the producing properties involved herein to J. G. Catlett Company, which company proposes to continue the sale of gas to Mississippi River Fuel Corporation pursuant to the gas sales contract dated July 1, 1951.

[6] Milton F. Shaffer, operator and owner only of a reversionary interest in the subject acreage, is filing for himself and on behalf of the following non-operators: Rex E. Greer, W. T. Smith, W. S. Boydstun, and Adams & McGahey, a partnership composed of R. W. Adams, Fred McGahey, David E. McGahey and Ruth McGahey. Applicant proposes to sell production from the subject acreage pursuant to a gas sales contract dated September 16, 1958, between Milton F. Shaffer, seller, and Phillips Petroleum Company, buyer. By instrument dated September 16, 1958, Applicant assigned his working interests in the subject acreage to Rex E. Greer, W. T. Smith, and Adams & McGahey; subsequently, by instrument dated October 25, 1958, W. T. Smith reassigned a working interest to W. S. Boydstun.

[7] L. C. Smitherman, operator, is filing for himself and on behalf of the following non-operators: F. A. Petrick, John Cecil, Norman J. Shields and Wilson Rains and Lloyd R. Williamson, d/b/a Rains and Williamson Oil Company. All are signatory seller parties to the subject gas sales contract.

[F.R. Doc. 60-1828; Filed, Feb. 29, 1960; 8:48 a.m.]

[Docket Nos. G-18704, G-18803]

PAN AMERICAN PETROLEUM CORP. AND OHIO OIL CO.

Notice of Applications and Date of Hearing

FEBRUARY 23, 1960.

In the matter of Pan American Petroleum Corporation, Docket No. G-18704; Ohio Oil Company, Docket No. G-18803.

Take notice that on June 2 and June 16, 1959, Pan American Petroleum Corporation (Pan-Am) and The Ohio Oil Company (Ohio), filed applications in Docket Nos. G-18704 and G-18803, respectively, for authorization under section 7(b) of the Natural Gas Act to abandon service to Montana-Dakota Utilities Company (Montana-Dakota) from the Frontier Gas Unit[1] producing gas from the Frontier Reservoir, Little Buffalo Basin Field, Park and Hot Springs Counties, Wyoming, subject to the jurisdiction of the Commission, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

The above service is covered by a gas sales contract dated July 1, 1949, between Stanolind Oil and Gas Company (now Pan-Am), Ohio, Grebo Royalties, Inc., and T. A. Pedley, as sellers, and Big Horn Gas Company (predecessor in interest to Montana-Dakota), as buyer, which contract is a renewal and extension of two previous contracts between the parties dated July 1, 1927 and July 1, 1937.

Applicants state that the subject contract expired by its own terms on July 1, 1959, and that no party has agreed to any extension or renewal of the contract or continuation of the sales covered by such contract.

Pan-Am states in its application that "it has not undertaken or held itself out as willing to undertake to sell any of its property, natural gas, except that which would be purchased during the term of the contract. Therefore on July 1, 1959, the amount of natural gas that Pan-Am agreed to sell Montana-Dakota will be exhausted and depleted so that the future continuance of deliveries will be unwarranted."

Both applicants state that upon the proposed expiration of the contract dated July 1, 1949, there will be remaining in the Frontier Reservoir, 11,000 Mcf of natural gas (calculated at an abandonment pressure of 40 psia). Pan-Am and Ohio propose to use this gas for repressuring purposes in the unitized Frontier oil reservoir in the nearby Grass Creek Field. Additionally, Pan-Am proposes to utilize some of the aforementioned gas for repressuring purposes in the Tensleep oil reservoir in the Little Buffalo Basin Field. Ohio states such unit repressuring would result in additional oil recovery of from 3 to 10 percent of the 82 million barrels of oil originally in place in the Grass Creek Frontier sand.

On July 22, 1959, Montana-Dakota filed its petition to intervene in both Docket Nos. G-18704 and G-18803.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a formal hearing will be held on March 28, 1960, at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 18, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[1] Ohio's application indicates that Pan-Am is operator of the Frontier Gas Unit with percentum of ownership as follows:

	Percent
Pan-Am	64.25
Ohio	27.45
Grebo Royalties, Inc	5.30
T. A. Pedley	3.00

[F.R. Doc. 60-1829; Filed, Feb. 29, 1960; 8:48 a.m.]

[Docket No. G-20596]

UNITED GAS PIPE LINE CO.

Notice of Application and Date of Hearing

FEBRUARY 23, 1960.

Take notice that United Gas Pipe Line Company (Applicant), a Delaware corporation with a principal office in Shreveport, Louisiana, filed on December 30, 1959, an application pursuant to section 7 of the Natural Gas Act for authority to construct and operate a tap and measuring and regulating station on its Waskom-to-Goodrich 22-inch pipeline near Milepost 45 in Shelby County, Texas, at the intersection of Applicant's line with an existing 4-inch line of the Sabine Gas Company and authority to sell natural gas to Sabine Gas Company at the meter station for resale in the communities of Halsam, Joaquin, Tenaha, and Timpson in Shelby County, Texas, and Garrison in Nacogdoches County, Texas, and their adjoining environs. Sabine now serves these areas from local production which is rapidly becoming depleted. The foregoing proposals are more fully described in the application on file with the Commission and open to public inspection.

Applicant states (1) Sabine's total gas supply comes from six small gas wells in the Joaquin Field and the daily allowable of these wells is not sufficient to serve Sabine's full requirements on an annual or peak day basis and (2) it estimates Sabine's demand on Applicant at a max-

imum of 1,000 Mcf per day and 261,600 Mcf per year during each of the first three years of proposed operation.

Applicant commenced service to Sabine in December 1959 pursuant to the provisions of § 157.22 of the Commission's regulations.

Applicant states the actual cost of Applicant's facilities was $2,611, which was defrayed from cash funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 29, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 18, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where as request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–1830; Filed, Feb. 29, 1960; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 270]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 25, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62442. By order of February 19, 1960, Division 4, acting as an Appellate Division, approved the transfer to E. J. Collins, doing business as A & B Moving and Storage, Kansas City, Mo., of Certificates Nos. MC 1297, MC 1297 Sub 1 and MC 1297 Sub 2, issued December 5, 1950, August 6, 1952, and December 12, 1955, respectively, to John J. Coleman, doing business as Comet Moving & Storage Company, Tulsa, Okla., authorizing the transportation of: Household goods, between Tulsa, Okla., and points within 35 miles of the center of said city, on the one hand, and, on the other, points in Oklahoma, Kansas, Arkansas, Missouri, and Texas; between Panora, Iowa, and points within 20 miles thereof, on the one hand, and, on the other, points in Illinois and Missouri; between Des Moines, Iowa, and points within 80 miles thereof, on the one hand, and, on the other, points in Illinois, Kansas, Minnesota, Nebraska, Oklahoma, South Dakota, and Wisconsin; between points in Iowa, on the one hand, and, on the other, points in Missouri on and north of U.S. Highway 24, and those in Minnesota, Nebraska, Indiana, and Illinois; and between points in Nebraska, Kansas, and those in Iowa on and west of U.S. Highway 63, on the one hand, and, on the other, points in Nebraska, Kansas, Iowa, Missouri, Colorado, Arkansas, Oklahoma, Texas, Minnesota, Wisconsin, Illinois, Kentucky, Georgia, Virginia, North Carolina, Ohio, Pennsylvania, New Jersey, Maryland, Massachusetts, New York, Tennessee, and the District of Columbia; canned goods, from Sleepy Eye, Minn., and Rochelle, Ill., to Omaha, Nebr.; radiator, steam and steam radiator parts, from Edwardsville, Ill., to Omaha, Nebr.; and oil and grease in containers, from Cleveland, Ohio, to Omaha, Nebr. Stephen Robinson, 1020 Savings and Loan Building, Des Moines 9, Iowa, for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 60–1832; Filed, Feb. 29, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

COURTLANDT F. DENNEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

A. Deletions: None.

B. Additions: American Telephone and Telegraph.

This statement is made as of February 15, 1960.

Dated: February 16, 1960.

COURTLANDT F. DENNEY.

[F.R. Doc. 60–1813; Filed, Feb. 29, 1960; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–18]

GENERAL ELECTRIC CO.

Notice of Hearing on Application for Amendment to Utilization Facility License

General Electric Company filed Amendments Nos. 41, 42, and 43 to its License Application for Vallecitos Boiling Water Reactor, dated December 4, 1959, December 30, 1959, and January 22, 1960, respectively, requesting amendment to Facility License No. DPR–1, as amended, authorizing General Electric Company to operate the reactor with certain internal modifications, with a new fuel arrangement including a new type of control rod and modified control rod actuators, and with both turbine-driven and electrically-driven coolant circulation pumps

Facility License No. DPR–1 authorizing General Electric Company to operate the Vallecitos Boiling Water Reactor was issued on August 31, 1957. Amendments 1 through 13 to License No. DPR–1 have been issued at various times thereafter. For further information all interested persons are referred to Facility License No. DPR–1 and amendments thereto and General Electric Company's license application, particularly Amendments Nos. 41, 42, and 43, all on file and available for public inspection at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act"), and the regulations in Part 2, 10 CFR, "Rules of Practice", notice is hereby given that a hearing will be held to consider General Electric Company's request for an amendment to License No. DPR–1, commencing at 10:30 a.m., on April 5, 1960, or on such later date as may be designated by the Presiding Officer, in the Auditorium of the AEC Headquarters, Germantown, Maryland. Samuel W. Jensch, Esq., is hereby designated as the Presiding Officer to conduct the hearing and to render a decision pursuant to § 2.751(a) of the AEC's rules of practice.

The issues to be considered at the hearing will be as follows:

1. Whether there is reasonable assurance that operation of the Vallecitos Boiling Water Reactor under the conditions proposed in Amendment Nos. 41, 42, and 43 to the license application will not endanger the public health and safety; and

2. Whether issuance of an amendment to Facility License No. DFR–1 in the form requested by General Electric Com-

pany will be inimical to the common defense and security.

The report of the Advisory Committee on Reactor Safeguards in this matter is available for public inspection in the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of such report may be obtained by request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Petitions for leave to intervene must be received in the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or in the AEC's Public Document Room, not later than thirty days after publication of this notice in the FEDERAL REGISTER, or in the event of a postponement of the hearing date specified above at such time as the Presiding Officer may provide. General Electric Company shall file an answer to this notice pursuant to § 2.736 of the Commission's rules of practice on or before March 21, 1960.

Papers required to be filed with the AEC in this proceeding shall be filed by mailing to the Secretary, Atomic Energy Commission, Washington 25, D.C., or may be filed in person at the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Presiding Officer, parties shall file twenty copies of each such paper with the AEC and where service of papers is required on other parties shall serve five copies of each.

Dated at Germantown, Md., this 24th day of February 1960.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[F.R. Doc. 60–1810; Filed, Feb. 29, 1960; 8:46 a.m.]

SPECIAL NUCLEAR MATERIAL

Notice of Proposed Lease Agreement

This notice amends a similarly entitled notice published in the FEDERAL REGISTER on December 16, 1959, 24 F.R. 10164–10165, as previously amended by the notice published in the FEDERAL REGISTER on January 9, 1960, 25 F.R. 206.

1. Delete the second sentence of said notice, as amended, and substitute in lieu thereof the following: "The new Agreement will be put into use on or about April 1, 1960."

2. Delete the fifth sentence of said notice, as amended and substitute in lieu thereof the following: "The new Lease Agreement must be executed by each licensee desiring to assume the lease responsibilities for special nuclear material to be received either directly from the Commission or from another licensee after March 31, 1960."

Dated at Germantown, Md., this 25th day of February 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60–1841; Filed, Feb. 29, 1960; 8:49 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

HAWAII

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061, and 23 F.R. 6971); by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g), as amended; and in furtherance of a declaration by the President in his letter to me dated January 21, 1960, reading in part as follows:

I hereby determine the damage in the various areas of the County of Hawaii, State of Hawaii, adversely affected by earthquakes and volcanic disturbances beginning on January 13, 1960, to be of sufficient severity and magnitude to warrant Federal assistance to supplement State and local efforts.

I do hereby determine the following area in the County of Hawaii, State of Hawaii, to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1960: All of the County of Hawaii.

Dated: February 18, 1960.

LEO A. HOEGH,
Director.

[F.R. Doc. 60–1811; Filed, Feb. 29, 1960; 8:46 a.m.]

STANLEY RUTTENBERG

Appointee's Statement of Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

No changes since last submission of statement published August 13, 1959 (24 F.R. 6602).

Dated: February 1, 1960.

STANLEY RUTTENBERG.

[F.R. Doc. 60–1784; Filed, Feb. 29, 1960; 8:45 a.m.]

J. ED. WARREN

Appointee's Statement of Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

Additions: Behlen Manufacturing Company.
Deletions: None.

This amends statement published August 13, 1959 (24 F.R. 6602).

Dated: February 1, 1960.

J. ED. WARREN.

[F.R. Doc. 60–1785; Filed, Feb. 29, 1960; 8:45 a.m.]